

**COMMONWEALTH OF PUERTO RICO  
PUERTO RICO DEPARTMENT OF HEALTH**

**INTENDED USE PLAN 2022  
DWSRF Base Allotment**

**FINAL  
February 2023**

## TABLE OF CONTENTS

	<u>PAGE</u>
<b>1.0 INTRODUCTION</b>	<b>3</b>
1.1 Additional Subsidization.....	16
1.1.1 “Mandatory Congressional 14% Subsidy” .....	17
1.1.2 “Limited 35% Subsidy/Disadvantaged Community” .....	20
1.2 Green Reserve Project (GPR).....	24
1.3 Davis Bacon Requirements.....	25
1.4 Reporting Requirements.....	26
1.4.1 Data Elements.....	28
1.4.2 Environmental/Public Health Benefits Reporting/NIMS.....	30
1.4.3 Needs Survey.....	31
1.5 Unliquidated Obligations.....	33
<b>2.0 SHORT AND LONG TERM GOALS</b>	<b>40</b>
2.1 Short Term Goals.....	41
2.2 Long Term Goals.....	41
<b>3.0 FINANCIAL STATUS/TOTAL DWSRF MONIES</b>	<b>43</b>
<b>4.0 TYPES OF PROJECTS TO BE FUNDED</b>	<b>60</b>
<b>5.0 FINANCIAL PLANNING PROCESS</b>	<b>71</b>
<b>6.0 TYPES OF ASSISTANCE AND FINANCIAL TERMS</b>	<b>72</b>
6.1 Direct Loans .....	75
6.2 Refinancing .....	76
6.3 Hardships Loans/Affordability Criteria for Disadvantage Systems.....	76
6.4 Additional Subsidization.....	77
6.5 Leveraging.....	81
6.6 Repayments .....	81
6.7 Other Authorized Activities and Clean, Safe, Reliable Water Infrastructure....	82

	<b><u>PAGE</u></b>
<b>7.0 SET-ASIDES ACTIVITIES</b>	<b>85</b>
7.1 Administrative Assistance.....	88
7.2 Technical Assistance .....	92
7.3 Small Water systems (Non-PRASA).....	96
7.4 State Program Management.....	101
7.4.1 Operator Certification Program.....	102
7.4.2 Capacity Development Program.....	104
7.5 Special Activities Local Assistance and Other State Program Up to 15% No More Than 10% Activity.....	109
7.5.1 Land Acquisition.....	110
7.5.2 Capacity Strategy.....	110
7.5.3 Source Water Petitions.....	115
<b>8.0 DISADVANTAGE COMMUNITY PROGRAM</b>	<b>117</b>
8.1 Definition of Disadvantage Community .....	117
8.2 Affordability (Hardship/Disadvantaged System) Criteria.....	124
8.2.1 Affordability Criteria .....	124
8.2.2 Hardship Financial Assistance Criteria.....	124
8.2.3 Projects Likely to Received Additional Assistance Payments (Hardship List) .....	126
8.2.4 Additional Subsidies.....	127
<b>9.0 PROJECT PRIORITY LIST</b>	<b>131</b>
9.1 Project Selection Process .....	131
9.2 Description and Use of Project List.....	132
9.3 Hardship List .....	133
9.4 State Environmental Review Process/Determination of Equivalency.....	133
<b>10.0 ATTACHMENTS and APPENDICES</b>	<b>135</b>

## **1.0 INTRODUCTION**

The Legislature of Puerto Rico enacted Act No. 32 of July 1997 and amended Act No. 5 through Act No. 193 of December 26, 1997, which in conjunction with the passage of the 1996 Amendments to the Safe Drinking Water Act (SDWA) by Congress provides the Commonwealth with the authority to establish a Drinking Water Treatment Revolving Loan Fund (DWSRF) Program. On September 15, 1998, the DWSRF was initially capitalized with the funds from 1997 and 1998. Through email dated December 9, 2021, EPA submitted the instruction for the request of funds corresponding to fiscal year 2022. EPA also indicated the states to submit the capitalization grant application on or before March 11, 2022, although, at the time the official allotment amount or the appropriation act was not available. As instructed by EPA, and to continue capitalizing the DWSRF, the Commonwealth applied for a federal Capitalization Grant in the amount of \$11,001,000, which was FY 2021 final allotment. EPA also informed that if the final amount of funding is determined to be lower than the amount requested, EPA will make the necessary revisions and adjustments to the application. On the other hand, if the funding is determined to be higher than the amount requested, it will be necessary to revise and submit to EPA a new grant application request.

On May 12, 2022, DOH received EPA's memorandum indicating that Congress passed the "Consolidated Appropriations Act, 2022" (Public Law 117.103) (hereinafter referred to as "Consolidated, 2022") and including the Final FY 2022 DWSRF Base Allotment. The final allotment available is in the amount of \$7,008,000. Also, EPA's memorandum dated March 8, 2022, for the implementation of the Bipartisan infrastructure Law of November 15, 2021 (hereinafter referred

to as BIL 2021), which includes new provisions applicable to the base DWSRF programs and, unless otherwise directed, are also applicable to projects funded in whole or in part with BIL funds. This implementation memorandum is expected to be applicable to all five years of BIL appropriations, from FY 2022 to FY 2026.

This Department is preparing the Intended Use Plan for fiscal year 2022 based on the requirements and conditions set for in the BIL 2021 and the “Consolidated, 2022” for the fiscal year 2022 funds regarding state match, and subsidy provisions. EPA’s memorandum of May 12, 2022, states that “programmatic terms and conditions will be sent to the states in the coming weeks.” DOH’s intention is to provide separate applications for the different grants detailed in the BIL.

As indicated in EPA’s memorandum of March 25, 2019 of the Office of Water among the provisions of the America’s Water Infrastructure Act of 2018, or AWIA, enacted In October 23, 2018 are amendments to the Safe Drinking Water Act §1452 (42 U.S.C. 300j-12) that provide changes to the DWSRF program. As EPA expressed in that instance, this is only the second major law in the past twenty (20) years to change part of the SDWA Section 1452 that enacted the DWSRF Program. This Act authorizes extended infrastructure loan terms, requires the provision of additional subsidy to state-defined disadvantaged communities, and expands source water protection-related eligibilities under the Local Assistance set-aside. These provisions will provide critical support to low-income communities and promote preventative activities to protect the water supply. There are also changes related to prevailing wages, need survey, and other authorized activities. EPA indicates that the changes will take place immediate. Among these

major changes are: “AWIA §2015(a) - Use of Funds” amended the SDWA §1452(a)(2)(B). The subsection now states: (B) “Limitation - Financial assistance under this section may be used by a public water system only for expenditures (including expenditures for planning, design, siting, and associated preconstruction activities, or for replacing or rehabilitating aging treatment, storage, or distribution facilities of the public water systems, but not including monitoring, operation, and maintenance expenditures) of a type or category which the Administrator has determined, through guidance, will facilitate compliance with national primary drinking water regulations applicable to the system under section 300g-1 of this title or otherwise significantly further the health protection objectives of this subchapter.” These activities were DWSRF eligible prior to the AWIA amendments, per the DWSRF regulations, and are now spelled out in the SDWA. States may continue using DWSRF funds for these activities”.

It is important to note that in April 2016 the government of Puerto Rico encountered a serious financial crisis. As a result of this crisis, a cut-off was imposed on the SRF’s, including the DWSRF, thus, by the Federal Treasury to the electronic fund transfer mechanism between the Federal Treasury and the government of Puerto Rico. DOH was not able to execute cash draws not only for reimbursement related to infrastructure projects but also for the reimbursement of administration funds of the Program.

As of January 2017, the cut-off imposed on April 2016 was partially eliminated, and the electronic funds transfer mechanism was allowed for reimbursement of administrative cost. During the cut-off period the Department of Health engaged in coordination with EPA and other Commonwealth agencies in the compliance and elimination of the Notice of Non-Compliance

issued by EPA. As previously indicated, PRASA the main loanee to the DWSRF, due to the fiscal situation of Puerto Rico, resulted with its financial capability impaired. The government's changes, altogether with PRASA's DWSRF debt restructure request, resulted in the federal cut-off imposed.

After almost four years of negotiations of PRASA's debt restructure and after satisfying a series of conditions imposed by EPA, including the establishment of a Trust Fund and the restitution of repayment funds and their deposit into DWSRF Trust Fund created at a private institution, Banco Popular de Puerto Rico (BPPR), the riddance of the cut-off was achieved. Thus, a total amount of \$53,316,155.58 were deposited. This amount included repayments, matching and certain administrative funds, where the corresponding exact amount distribution was determined by DOH based on estimates at the time of the cut-off and any other data provided by the bank in terms of interest earned. These estimated amounts established were segregated in the corresponding sub-accounts of the Trust Fund. DOH has estimated the repayments available as part of the debt restructure and established them in the annual IUP of fiscal year 2020. For fiscal year 2021, the amount estimated was \$5, 990,170.45. Due to the fact that there were certain \$16,601,522.24 available as a result of the debt restructure agreement<sup>1</sup>, this Department confirmed this amount and determined their availability for use by PRASA for projects or any qualified and eligible project. Thus, DOH assigned \$16,601,522.24 to the projects included in the previous FY 2021 IUP and to be included in the corresponding FY 2021 financial agreement /loan.

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<sup>1</sup> A total of \$16,601,522.24 were identified related to projects that whether had not started construction or had no disbursement of their loan.

Because the program has been restarted so recently, we are looking forward to the award of the accumulated amounts of capitalization grants awarded mainly during the cut-off period and amounts resulting available from the debt restructure which constitute large sums. For this fiscal year 2022 DOH has determined to include the amount of \$5,000,000 as the repayment amount to be used in the FY Capitalization Grant FY 2022 IUP. This will also give the opportunity to PRASA to present and/or propose new projects based on the progress and development schedule of the ones that have received the first financial agreement after PRASA's debt restructure process and the restart of the construction projects under the DWSRF.

We need to emphasize that DOH was able to continue with the implementation of the ULO's Reduction Strategy up to April 2016. Funds corresponding to fiscal years 2009 to 2014 were available to be used and redistributed, as requested by EPA through the ULO's Strategy. Notwithstanding the federal cut off, DOH was still able to continue redistributing funds because it was able to cash draws through the Moratorium Act repayment funds. Nevertheless, beyond September 2016 and up to date, DOH was not able to continue the Strategy. This Department has revised it as a result of the debt restructure where determination of available fund balances was necessary in order to restart the program. Now that DOH has been able to disburse the funds pending as identified in the restructure agreement, this Department has moved to continue with the Strategy.

Although DOH complied with all EPA's requirements in order to eliminate the cut-off, it prevailed because it was subject to PRASA's DWSRF debt restructure.



On July 26, 2019, the debt restructure agreement between the Puerto Rico Aqueduct and Sewer Authority (PRASA), the Puerto Rico Infrastructure Authority (PRIFA) and this Department was reached. It was totally riddled on September 5, 2019, as per EPA's written notification. Afterwards, the DWSRF restarted full operations including pending disbursements and loan execution.

This Intended Use Plan (IUP) considers the use of grant funds in the amount of \$7,008,000, the corresponding twenty percent (20%) match requirement in the amount of \$1,401,600 and \$5,000,000 as repayment funds.

In addition to the America Water Infrastructure Act of 2018, or AWIA, the Commonwealth of Puerto Rico will use as guidance for this FY 2022 DWSRF Base Allotment Intended Use Plan, the Bipartisan Infrastructure Law of November 15, 2021 (BIL 2021), and the "Consolidated Appropriations Act, 2022" (Consolidated 2022"), passed by Congress on March 15, 2022.

As previously stated, and per EPA's instructions, this Department submitted on October 22, 2022, the capitalization grant application for FY 2022 funds in the amount of \$7,008,000 based on the FY 2022 Base Allotment. The FY 2022 grant was requested within the deadlines established by EPA.

Monies appropriated by the Commonwealth will be used to provide federally mandated state matching funds of at least 20% and will also provide any required dollar to dollar match for any set-aside that may be established within the DWSRF program. It is important to know that since fiscal year 2017, the dollar-to-dollar match for set-aside, including the State Program Management set-aside, was eliminated for capitalization grants awarded after the Water

Infrastructure Improvements for the Nation (WIIN) Act’s passage (December 6, 2016). This passage changes to the SDWA subsection 1452(G)(2), particularly to the DWSRF set asides, create additional Program flexibilities for state managers to consider. These changes took immediate effect during FY 2017. The WIIN changes to the SDWA subsections are shown in italic. Regarding the WIIN §2102: Preconstruction Work as amended, the SDWA §1452(a)(2) as amended for “Use of funds” now states:

**“(A) In general**

Except as otherwise authorized by this subchapter, amounts deposited in a State loan fund, including loan repayments and interest earned on such amounts, shall be used only for providing loans or loan guarantees, or as a source of reserve and security for leveraged loans, the proceeds of which are deposited in a State loan fund established under paragraph ( 1 ), or other financial assistance authorized under this section to community water systems and nonprofit noncommunity water systems, other than systems owned by Federal agencies.”

The WIIN includes changes on limitation of the use of the funds, authorization for the sale of bonds for some specific purposes.

Also, WIIN §2103: Administration of State Loan Funds, has amended the SDWA § 1452(g)(2) states as follows:

“(2) Cost of administering fund

(A) Authorization

(i) In general

For each fiscal year, a State may use the amount described in clause (ii)-

- (I) to cover the reasonable costs of administration of the programs under this section, including the recovery of reasonable costs expended to establish a State loan fund that are incurred after the date of enactment of this section; and
- (II) to provide technical assistance to public water systems within the State.

(ii) Description of amount

*The amount referred to in clause (i) is an amount equal to the sum of-*

*(I) the amount of any fees collected by the State for use in accordance with clause (i)(I), regardless of the source; and*

*(II) the greatest of-*

*(aa) \$400,000;*

*(bb) 1 /5 percent of the current valuation of the fund;*

*and*

*(cc) an amount equal to 4 percent of all grant awards to the fund under this section for the fiscal year.”*

When referencing to the 10% of the State Program Management (SPM) set-aside, the WIIN §2103(2)(B) - Additional use of funds – eliminates the requirement to the State to match “the

*expenditures with at least an equal amount of State funds*” and also eliminates the requirement to “at least half of the match must be additional to the amount expended by the State for public water supervision in fiscal year 1993.” “Therefore, for capitalization grants awarded after December 16, 2016, states are no longer required to provide the additional match to receive this set-aside. For capitalization grants awarded before December 16, 2016, all terms and conditions applicable to those capitalization grants remain in effect. Specifically, states must continue to demonstrate the SPM match when drawing from pre-December 16, 2016, capitalization grants.” Regarding the state match required by law, we have to point out that Consolidated Appropriation Act, 2022 requires a 20% of the allotment to be provided as state match in order to receive the approval of the 2022 grant request. The WIIN, 2017 also confirms this requirement. Therefore, in compliance with the requirements of the SDWA Act for FY 2022, DOH is providing the corresponding state match and is including it in this Intended Use Plan based upon the fact that we have already filed our grant application including said amount. As indicated in the previous IUP for fiscal year 2020, this Department continued providing the match that was waived for the funds obligated but not disbursed (for Puerto Rico is the FY 2012 through 2014) thus, this Department claimed the match credit in the amount of approximately \$1,011,813.18 in the IUP corresponding to the grant application submitted for the FY 2021 funds, but no approval was received nor the discussion of the corresponding process needed for claiming this amount. This issue has been under discussion during 2022 with EPA and they have indicated the required process. Currently, we have provided all the Information requested by EPA on the claiming of this credit and DOH is expecting its approval for use for the 2022 capitalization grant.

The Intended Use Plan (IUP) is the planning document for explaining how all DWSRF funds, including the federal fiscal year (FFY) 2022 full allotment will be used. This Program will help public water systems finance needed drinking water projects.

The DWSRF is administered by the Puerto Rico Department of Health (DOH) and, as established by law, it can be assisted in said administration by the Puerto Rico Environmental Quality Board (PREQB) and the Puerto Rico Infrastructure Financing Authority (PRIFA). Since September 2018, and as requested by EPA, being the Fiscal Agency and Financing Advisory Authority (FAFAA) of Puerto Rico the new Fiscal Agent of the Commonwealth, their participation was considered in the DWSRF. To this effect, DOH revised not only its Operating Agreement, but also the Memorandum of Understanding and related documents in order to include the FAFAA and detail their role and responsibility regarding the DWSRF. In addition, the Trust Fund agreement required by EPA for Puerto Rico's SRFs was established.

The DOH, acting on behalf of the Commonwealth of Puerto Rico ("Commonwealth"), hereby submits to the U.S. Environmental Protection Agency ("EPA"), as part of its annual application for a Capitalization Grant under Section 1452 of the Safe Drinking Water Act, as amended (the "Act"), an Intended Use Plan ("IUP") which meets the requirements of Section 1452 of the Act and the AWIA amendments to Section 1452.

As previously stated, this Department will be using the "Consolidated Appropriations Act, 2022" (Public Law 117-103 (hereinafter referred to as "Consolidated, 2022"), the WIIN, 2017 the America Water Infrastructure Act of 2018, or AWIA.

During fiscal year 2018, Section 424 of the Consolidated Appropriations Act of January 3, 2018, as well as P.L. 114-322 (the WIIN Act) required “that all iron and steel products used for a project for the construction, alteration, maintenance, or repair of a public water system are produced in the United States except as provided in paragraph (b)(2) of this section and condition. This requirement shall not apply in any case or category of cases in which the Administrator of the Environmental Protection Agency finds that: (i) applying the requirement would be inconsistent with the public interest; (ii) iron and steel products are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or (iii) inclusion of iron and steel products produced in the United States will increase the cost of the overall project by more than 25 percent.

AWIA §2022, American Iron and Steel Products, as amended, the SDWA §1452(a)(4)(A) now states:

“(4) American Iron and Steel Products

(A) In general,

During *fiscal years 2019 through 2023*, funds made available from a State loan fund established pursuant to this section may not be used for a project for the construction, alteration, or repair of a public water system unless all of the iron and steel products used in the project are produced in the United States”.

This section extends the American Iron and Steel, or AIS, provision for DWSRF-funded projects through federal fiscal year 2023. For more information, we have included as Attachment A - *EPA’s memorandum dated November 20, 2018, on the subject*

*“Application of American Iron and Steel Requirements for Drinking Water State Revolving Fund Projects for Fiscal Years 2019 Through 2023.”*

The Consolidated, 2022 requires that: “States must use 14 percent of the funds made available in the base 2022 DWSRF capitalization grant to provide additional subsidization to eligible recipients in the form of forgiveness of principal, negative interest loans, or grants (or any combination of these) to be used:

- where such funds are provided as initial financing for an eligible recipient or to buy, refinance, or restructure the debt obligations of eligible recipients only where such debt was incurred after March 15, 2022, or
- where such debt was incurred prior to March 15, 2022, if
  - the state, with concurrence from the EPA Region, determines that such funds could be used to help address a threat to public health from heightened exposure to lead in drinking water, or
  - a federal or state emergency declaration has been issued due to a threat to public health from heightened exposure to lead in a municipal drinking water supply before March 15, 2022.

In a state in which such an emergency declaration has been issued, the state may use more than 14 percent of the 2022 capitalization grant for additional subsidy to recipients who are subject to the emergency declaration. In this case, the additional subsidy ceiling is the total capitalization grant amount, minus set-asides taken.”

These procedures address the implementation of the requirements and set forth administration priorities. Thus, changes to the requirements of the Program regarding additional subsidization, the green project reserve and the Davis Bacon requirements can be appreciated in these procedures. During this current fiscal year, the additional requirements affecting the DWSRF Program, related to Additional Subsidization, Green Reserve, Davis-Bacon, and Reporting will prevail with variations. Applicable changes will be detailed in the corresponding sections.

In addition, there are certain administration priorities under which EPA encourages the states to work with potential SRF funding recipients in order to provide funding support for robust systems/wide planning or improving sustainability of water infrastructure that:

- consider the full life-cycle costs of a range of alternatives, including green infrastructure and conservation approaches,
- are consistent with community goals and objectives, and
- include a financial strategy to ensure that the infrastructure can be sufficiently operated, maintained and replaced over time.

For background regarding this provision's application in previous years, please refer to ***Attachment VII – EPA Memoranda of May 20, 2011 (Attachment 8 of the DWSRF Projects Benefit Reporting Data Elements 2012 Procedures) and December 20, 2012; Interim Davis Bacon Act Guidance (EPA) March 2010 (<https://www.epa.gov/drinkingwatersrf/interim-davis-bacon-act-guidance>); AIS – Memoranda EPA-Washington, DC of May 11, 2013; Nov 27, 2017; April 7, 2017; February 3, 2016, October 13, 2015, January 15, 2015; AIS Guidance March 2014; Questions and Answers (Q&A) Part I – Valves, Hydrants (May 2014); Questions and Answers (Q&A) Part II –***



*Product, Project and Process (Sept. 2014); Questions and Answers (Q&A) Part III – Plans Specifications Dates... (March 2015).* This Attachment also includes Memorandum of March 25, 2019 – Implementations of Drinking Water State Revolving Funds (DWSRF) – related Safe Drinking Water Act (SDWA) Amendments in America’s Water Infrastructure Act (AWIA) of 2018. **Attachment VII-A** includes EPA memoranda dated March 8, 2022 regarding the BIL 2021; May 12, 2022 regarding the DWSRF final allotment for fiscal year 2022 and memorandum dated June 6, 2017 regarding Water Infrastructure Improvements for the Nation (WIIN) Act’s passage (December 6, 2016).

Following are the requirements for the Consolidated, 2022.

**1.1 Additional Subsidization**

This Department will be using, in addition to the America’s Water Infrastructure Act of 2018, or AWIA, the Further Consolidated Appropriations Act, 2020, and the “Consolidated Appropriations Act, 2022” where funds previously appropriated for capitalization grants for the State Revolving Funds are made available subject to certain provisions.

In regard to the additional subsidization, we must indicate that, by law, there are two additional subsidies approved by the Congress that we will be using. We will be referencing one as the “Mandatory Congressional 14% Subsidy” which will be awarded with zero percent (0.0%) of interest rate and principal forgiveness and the second as the “Limited 35% Subsidy” which will be awarded as a loan.

For several years DOH has been able to provide additional subsidies. Up to fiscal 2018, the amount of \$39.8 million under this reserve has been provided in order to avail the construction of infrastructure, as well as a counteraction to the global economic distress/rescission. Up to fiscal year 2021 award, the amount provided for subsidy was \$43.5 million, which included \$2.2 million of the last two fiscal years (FY 2019 and FY 2020) and \$1.5 for FY 2021. For this current fiscal year 2022, the total new amount awarded as additional subsidy is \$981,120. This amount does not consider the “Limited 35% Subsidy/Disadvantaged Community”.

#### **1.1.1 “Mandatory Congressional 14% Subsidy”**

The Consolidated Appropriations Act, 2022 requires that: “States must use 14 percent of the funds made available in the 2022 DWSRF capitalization grant to provide additional subsidization to eligible recipients in the form of forgiveness of principal, negative interest loans, or grants (or any combination of these) to be used: (1) where such funds are provided as initial financing for an eligible recipient or to buy, refinance, or restructure the debt obligations of eligible recipients only where such debt was incurred after March 15, 2022, or (2) where such debt was incurred prior to March 15, 2022, if (a) the state, with concurrence from the EPA Region, determines that such funds could be used to help address a threat to public health from heightened exposure to lead in drinking water, or a federal or state emergency declaration has been issued due to a threat to public health from

heightened exposure to lead in a municipal drinking water supply before March 15, 2022.”

The recipient (DOH or the Commonwealth) agrees to use fourteen percent (14%) or \$981,120 of the funds made available in the capitalization grant to provide additional subsidization to eligible recipients in the form of forgiveness of principal, negative interest loans, or grants (or any combination of these) which shall be used by the State:

- where such funds are provided as initial financing for an eligible recipient or to buy, refinance, or restructure the debt obligations of eligible recipients only where such debt was incurred after March 15, 2022, or
- where such debt was incurred prior March 15, 2022:
  - ❖ if the state, with concurrence from the EPA Region, determines that such funds could be used to help address a threat to public health from heightened exposure to lead in drinking water, or
  - if a federal or state emergency declaration has been issued due to a threat to public health from heightened exposure to lead in a municipal drinking water supply before March 15, 2022.” It is provided further “that in a state in which such an emergency declaration has been issued, the state may use more than 14 percent of the funds made available under this title to the state DWSRF capitalization grants to provide additional subsidy to

eligible recipients.” If such is the case the Department may move to use more than the fourteen percent to provide this additional subsidy.

Since FY 2010, the requirements are more demanding and expansive. For fiscal years 2013, 2014 and 2015, States were required to provide additional subsidies of not less than 20 percent but no more than 30 percent of the funds that are available to recipients in the form of forgiveness of principal, negative interest loans, or grants (or any combination of these) to any “eligible recipients” of DWSRF assistance. From fiscal year 2016 to FY 2019 States were required to provide twenty percent (20%) of the capitalization grant amount in additional subsidies. Now, for fiscal years 2020, 2021 and 2022, a fourteen percent (14%) is required to provide additional subsidy.

Therefore, in targeting the additional subsidies, in first instance, Puerto Rico will provide fourteen percent (14%) or \$981,120 of the FY 2022 capitalization grant awarded as a subsidy with zero percent (0.0%) of interest rate and principal forgiveness, within others, and will be subject to compliance with the regulations at 40CFR Part 31, as established in the EPA and the Consolidated, 2021. See section 8.2.4 of this IUP. The recipient of the grant must identify projects within certain categories as defined by the Commonwealth. For this fiscal year, the Coto Laurel WTP project will receive the amount of \$981,120 corresponding to the Mandatory Congressional 14% Subsidy.

### 1.1.2 “Limited 35% Subsidy/Disadvantaged Community”

Another additional subsidization is the subsidy under disadvantage community that we will be referencing in this IUP as the “Limited 35% Subsidy/Disadvantaged Community”. It is important to point out that Section 1452(d) of the Safe Drinking Water Act (SDWA), related to the disadvantaged community assistance was amended by AWIA §2015(c): Assistance for Disadvantaged Communities. It states:

“(1) Loan subsidy - Notwithstanding any other provision of this section, in any case in which the State makes a loan pursuant to subsection (a)(2) to a disadvantaged community or to a community that the State expects to become a disadvantaged community as the result of a proposed project, the State may provide additional subsidization (including forgiveness of principal).

(2) Total amount of subsidies - For each fiscal year, *of the amount of the capitalization grant received by the State for the year*, the total amount of loan subsidies made by a State pursuant to paragraph (1)

(A) may not exceed 35 percent and

(B) *to the extent that there are sufficient applications for loans to communities described in paragraph (1), may not be less than 6 percent.*

(3) "Disadvantaged community defined" In this subsection, the term "disadvantaged community" means the service area of a public water system that meets affordability criteria established after public review and comment by the

State in which the public water system is located. The Administrator may publish information to assist States in establishing affordability criteria."

Therefore this section required the states to use "at least 6 percent but no more than 35 percent of the capitalization grant amount for additional subsidy for State – defined disadvantage communities." Previously in the SDWA, "the floor was zero percent, and the ceiling was 30 percent in the SDWA. This requirement [in the AWIA] pertain[ed] to capitalization grants awarded by the EPA to states after October 23, 2018. For most states, this is [was] the Federal Fiscal Year 2019 grant."

"States must establish or continue to implement a Disadvantaged Community Program and solicit applications from water systems. The SDWA allows for the possibility that states may not meet the provision; note that the law text above says, "to the extent there are sufficient applications for loans... "States, unable to find a sufficient number of disadvantaged community projects should explain in their Intended Use Plan (IUP) and Annual/Biennial Report why the provision was not met and what they are doing to ensure that this provision is met in future years (e.g., marketing, outreach, technical assistance)."

"As a reminder, under the Disadvantaged Community Additional Subsidy Authority, subsidies had to be in the form of a loan (e.g., loans which include principal forgiveness, negative interest rate loans {40 CFR §35.3525(b)(1)}. This

provision did not authorize grants. Further, fees included as principal in a loan cannot be assessed on a disadvantaged community receiving additional subsidy under the Disadvantaged. As now can be appreciated all this changed due to the 2022 consolidated appropriation.

As amended by the Consolidated, 2022, “this section [now] requires the states to use at least 12 percent but no more than 35 percent of the capitalization grant amount for additional subsidy for State – defined disadvantage communities.”

As a reminder, under the Disadvantaged Community Additional Subsidy Authority, subsidies must be in the form of a loan (e.g., loans which include principal forgiveness, negative interest rate loans {40 CFR §35.3525(b)(1)}). This provision did not authorize grants and it was until 2021. Now with the Consolidated Appropriation of 2022: THE SUBSIDIES MAY BE IN THE FORM OF FORGIVENESS OF PRINCIPAL, GRANTS, NEGATIVE INTEREST LOANS, OTHER LOAN FORGIVENESS, AND THROUGH BUYING, REFINANCING, OR RESTRUCTURING DEBT.

Further, fees included as principal in a loan cannot be assessed on a disadvantaged community receiving additional subsidy under the Disadvantaged Community Additional Subsidy authority {40 CFR §35.3525(b) (3)}.”

In compliance with the law and thus, targeting subsidies, the DWSRF program has since its inception defined the “disadvantaged,” community in order

to avail the use of additional subsidization as authorized by law but circumscribed to those communities in need that meet the Commonwealth's definition of "disadvantaged," and limited it to up to or not to exceed 30 percent of the capitalization grant. The Department has considered it as the optional 30% (1452(d) but it was established for fiscal year 2018 in the amount of \$3,332,100 and it was under evaluation as part of PRASA's debt restructure for open loans. Nevertheless, since FY 2019 with the enactment of the AWIA 2018, a minimum of six (6) percent was established, thus it was no longer totally optional although this percent is limited or it is subject to the availability of sufficient loan applications, which are eligible or meet the definition. For FY 2020 there were not available sufficient loan applications, which were eligible or met the definition. During fiscal 2021 this subsidy ranged from \$660,060 or 6% to \$3,850,350 or 35% for disadvantage communities, in accordance with AWIA. As a result of the public participation process and after evaluating applications requested, for the fiscal year 2021 DOH has determine to establish only 19.82% or \$2,180,000 of the total of 35% Limited Subsidy, and as such was assigned.

Now for fiscal year 2022, in accordance with AWIA and the Consolidated 2022, States are required to provide additional subsidies of not less than 12 percent but no more than 35 percent of the capitalization grant amount for additional subsidy for state-defined Disadvantaged Communities and to the extent that there are sufficient applications for loans to communities that meet



the definition of disadvantaged. During fiscal year 2022, this subsidy is also in second instance established ranging from \$840,960 or 12% to \$2,452,800 or 35% for disadvantage communities, in accordance with the Consolidated, 2022. After evaluating applications and requests for this fiscal year, DOH has determined to establish the maximum 35% Limited Subsidy or \$2,452,800 for disadvantage communities. The maximum 35% for disadvantage communities was assigned to the following three projects: New CT / Distribution Tank FP Corozal (Termination), Termination of Juncos-Valenciano, and Coto Laurel WTP. These will be awarded as a subsidy with zero percent (0.0%) of interest rate and 100% principal forgiveness.

## **1.2 Green Project Reserve (GPR)**

As established in the AWIA of 2018 and the Consolidated, 2021 and 2022, “funds made available under this title to each State for Drinking Water State Revolving Fund capitalization grants may, at the discretion of each State, be used for projects to address green infrastructure, water or energy efficiency improvements, or other environmentally innovative activities”.

For several years DOH has been able to use funds in the amount of \$8.6 million under the Green Project Reserve that were directed towards water and energy efficiency. Notwithstanding, during this year Puerto Rico has not been able to identify green infrastructure within the projects that will be funded from the FY 2022 funds and, thus, will not use monies provided by this grant to address green infrastructure funds for

eligible projects, water or energy efficiency improvements, or other environmentally innovative activities, as established in the Consolidated, 2022.

### **1.3 Davis-Bacon Requirements**

As stated by Consolidated and Further Continuing Appropriation Act of 2015 (P.L.113-235), “For fiscal year 2012 and each fiscal year thereafter, the requirements of section 1450(e) of the Safe Drinking Water Act (42 U.S.C. 300j-9(e)) shall apply to “any construction project carried out in whole or in part with such assistance made available by a drinking water treatment-revolving loan fund as authorized by section 1452 of that Act (42 U.S.C. 300j-12).” Therefore, this requirement is now permanent for SRF programs.

Nevertheless, with AWIA §2015(b): Prevailing Wages, AWIA created a new SDWA § 1452(a)(5), which states:

*“(5) Prevailing wages*

*The requirements of section 300j- 9(e) of this title shall apply to any construction project carried out in whole or in part with assistance made available by a State loan fund.”* According to EPA’s explanation “this section places the existing Davis-Bacon wage rate requirement for DWSRF-funded infrastructure projects into the DWSRF-authorizing section of the SDWA. Congress previously made this a permanent requirement via the Consolidated Appropriations Act of 2012. Therefore, states must continue to ensure that DWSRF infrastructure assistance recipients comply with the Davis-Bacon Act.”

DOH, as recipient, agrees to comply with the requirements of section 1450(e) of the Safe Drinking Water Act (42 U.S.C. 300j-9e)) and section 1452 of that Act (42 U.S.C. 300j-12)

In order to comply with the Davis-Bacon requirements, the Commonwealth will include in all assistance agreements, whether in the form of a loan, bond purchase, grant, or any other vehicle to provide financing for a project the provisions in the Consolidated 2015, a term and condition requiring compliance with the requirements of section 1450(e) of the Safe Drinking Water Act (42 U.S.C.300j-9(e)) in all procurement contracts and sub-grants, and it will require that loan recipients, procurement contractors and sub-grantees include such a term and condition in subcontracts and other lower tiered transactions. All contracts and subcontracts for any construction project carried out in whole or in part with assistance made available as stated herein shall insert in full in any contract in excess of \$2,000 the contract clauses as stated in the Further Consolidated, 2020, the Consolidated, 2021, the Consolidated, 2022 and the AWIA 2018, §2015(b): Prevailing Wages or any grant condition referencing Contract and Subcontract provisions.

#### **1.4 Reporting Requirements**

The SDWA requires in general a series of reports that need to be provided as part of the administration of the Program. With the AWIA enactment, new information needs to be provided as part of mandatory reports. Such as the following:

- of the new limit established for the disadvantage community projects, where it is necessary to explain in their Intended Use Plan (IUP) and Annual/Biennial

Report why the provision was not met and what the Program is doing to ensure that this provision is met in future years (e.g., marketing, outreach, technical assistance).

- EPA has to provide to Congress certain information that is generated in the state and the public water systems where it is necessary: “to identify demonstrations of compliance with a State or local environmental law that may be substantially equivalent to any demonstration required by the Administrator for compliance with a federal cross-cutting requirement. Thus, “Congress directs the GAO to work with the state drinking water primacy agencies and public water systems on this study and the report is due by October 23, 2019 (one year after AWIA’s enactment).”
- in the Report to the Governor on the efficacy of the strategy and progress made toward improving the technical, managerial, and financial capacity of public water systems in the State is necessary to demonstrate *“efforts of the State to encourage development by public water systems of asset management plans and to assist public water systems in training relevant and appropriate persons in implementing such asset management plans”*.

The conference committee’s Joint Explanatory Statement for the Appropriations Act directs the Agency to “report on how EPA and the States have used the additional subsidization authority, including information on the number and amounts of loans awarded with additional subsidization, recipient communities, and descriptions of

projects funded. “States shall report quarterly in the DWSRF Project and Benefits Reporting (PBR) systems on the use of all SRF funds. This information will also need to be included in the Annual Report. Quarterly reporting shall include use of the funds for the GPR, and Additional Subsidization as described in paragraph below, as well as information on the environmental and public health benefits of SRF assistance agreements, as described in paragraph below.”

#### **1.4.1 Data Elements**

The CBR/PBR and the Annual Report must contain information on the progress made in meeting the additional subsidization requirements for both SRFs and the GPR requirements for the CWSRF, as well as any green projects funded by the State for the DWSRF. (Note: For the DWSRF, it is the State’s choice to fund green projects. If a State decides to fund green projects, the data about the projects must be reported to PBR.)

The following data elements must be entered quarterly into CBR/PBR starting with the first quarter in which the assistance agreement is made and a list containing the following information must be included in State Annual Reports. (Additional clarification on the items listed below is provided in CBR/PBR.)

- a. Assistance Recipient Name
- b. Total amount of SRF assistance provided
- c. Project name and identification number
- d. Project Location

- e. Type of additional subsidy (grant, principal forgiveness, negative interest).
- f. Amount of additional subsidy
- g. Y/N – Would the recipient have been able to afford a loan without the additional subsidy (using the States’ own criteria for making this determination, such as use of their SRF loan evaluation criteria)?

For projects that receive funding under the Green Project Reserve for the CWSRF or which are funded as green projects at the State’s discretion for the DWSRF, the following additional data elements must be entered quarterly into CBR/PBR and a list containing the following additional information must be included in State Annual Reports. (Additional clarification on the items below is provided in CBR/PBR.)

- a. Type of project (green infrastructure, water efficiency, energy efficiency, environmentally innovative).
- b. Amount of SRF funding for GPR portion of the project.
- c. Of the total amount of GPR funding, the amount of subsidy provided (if any).
- d. A brief description of the project (i.e., rain garden, renewable energy at POTW, water efficient fixtures).
- e. Population served by the project (not required for CWSRF nonpoint source projects).

#### **1.4.2 Environmental/Public Health Benefits Reporting/NIMS**

In FY 2010, the DWSRF program identified project level data to be reported quarterly to the Drinking Water Project and Benefits Reporting System (PBR) for the base program. These data elements were used for states' quarterly reporting in FY 2013. The data elements are identified in **Attachment VII** of the FY 2012 Procedures (as identified in *Attachment 8 of the DWSRF Projects Benefit Reporting Data Elements 2012 Procedures*) and will be used for reporting environmental/public health benefits of DWSRF assistance agreements. The Consolidated, 2021, the Bipartisan Budget Act of 2018, and the Consolidated 2022 as well as any grant condition, where applicable, also require the reporting of the data elements in compliance with the request for data related to the use of the funds under Section 1452 of the SDWA, and to report all uses of the funds not less than quarterly as the EPA specifies for the drinking water project and Benefit Reporting (PR) data base.

The Project Benefits Reporting System (PBR) collects project-level data elements to assist the State in meeting reporting requirements and better gather and report information for internal and external reports line the NIMS. It is a tool where the State can demonstrate measurable contributions of the DWSRF program to supporting Safe Water Act goals. It is a communication conduit between State and EPA Regions. Informative data can be gathered at a state, regional and national level for overview purposes.

The data elements identified in the above-mentioned *Attachment 8* must be reported in the Annual Report. Summary reports, compiling the quarterly data, can be generated by PBR and may be included as an attachment to the Annual Report to meet this reporting requirement.

Puerto Rico will be reporting quarterly in the DWSRF Project Benefits Reporting (PBR) system on the use of all SRF funds.

Annually, DOH has committed in the preparation of the NIMS. It is DOH's intention to continue participating in the preparation of the NIMS and will use the resources of the PBR and NIMS online to enter this information. Quarterly reporting shall include use of the funds for the GPR and Additional Subsidization, as well as information on the environmental benefits of SRF assistance agreements. This information will be included in the Annual Report.

#### **1.4.3 Needs Survey**

We have to point out that AWIA§1452(h) also modifies the reporting in regard the Needs Survey. The amendment now states:

“(h) Needs Survey

(1) The Administrator shall conduct an assessment of water system capital improvement needs of all eligible public water systems in the United States and submit a report to the Congress containing the results of the assessment within 180 days after August 6, 1996, and every 4 years thereafter.



(2) Any assessment conducted under paragraph (1) after October 23, 2018, shall include an assessment of costs to replace all lead service lines (as defined in section 300j- 19b(a)(4) of this title) of all eligible public water systems in the United States, and such assessment shall describe separately the costs associated with replacing the portions of such lead service lines that are owned by an eligible public water system and the costs associated with replacing any remaining portions of such lead service lines, to the extent practicable.”

EPA’s explanation is that: “The quadrennial Needs Survey shows the capital improvement need for DWSRF-eligible public water system infrastructure over the next 20 years.”

“This section requires the EPA to include an estimate of replacement costs for all lead service lines, public and private, in Needs Surveys conducted after October 23, 2018. Complete service line replacement is defined by replacing pipes up to the point of premise plumbing. Service lines consist of a publicly owned section and a privately-owned section. The publicly owned portion of a service line is the section connected to the water main and running up to the property line. The privately-owned portion is the section running from the property line to connection to the premise plumbing (generally at an isolation valve). Replacement of the entire service line is DWSRF-eligible. Continuing from the publicly owned portion of the pipe often found under a street, the service line from the public water main to the point at which it connects with premise plumbing is DWSRF-

eligible. Premise plumbing is defined by the pipes found on the other side of the isolation valve. That connection may be inside or outside of homes and other buildings. Note that premise plumbing is not eligible for DWSRF funding.”

### **1.5 Unliquidated Obligations**

On December 10, 2014, the US Environmental Protection Agency (EPA) met with the Department of Health DWSRF Program. The purpose of the meeting was to discuss the grants policy issuance 12-06 *“Timely Obligations, Award and Expenditure of EPA Grant Funds”*. Also, information related to the Association of State Drinking Water Administrators for Managing DWSRF Funds in order to maintain ULO’s at a low level (Sept. 28, 2012) was discussed. Related documents as the memorandum dated Sept. 12, 2013 for *“Maximizing the Benefits of the DWSRF through efficient federal funds management practices”* and the memorandum dated April 14, 2014 for *“DWSRF ULO’s Reduction Strategy”* were presented to DOH and as well were discussed.

Based on the information provided by EPA Headquarters and the need to reduce the ULO’s, DOH has determined to use several practices that are detailed on the above-mentioned memoranda to accelerate the use of the ULOs.

Having EPA emphasized the need to reduce these funds from previous grants (FY 2013 and prior years’ funds) by the end of September 2016 or within the next year the following actions and procedures were implemented. Due to the fact that since fiscal year 2016 there was a cut-off which was partially rided in January 2017 for administrative and set-aside transaction but continued in effect for PRASA’s projects

infrastructure subject to the PRASA's debt restructure agreement, it is possible that the following steps undertaken might need revision as of today that there has been a total riddance of the cut-off.

- Use the federal funds in a first-in-first-out (FIFO) basis. The oldest grant open as of January 2015 is the 2009 grant and drawdowns will be directed towards this grant and subsequent opened ones. As of today, the last grant closed with final FFR submitted is that of fiscal year 2013, submitted in March 2021. EPA submitted the close-out letters for FY 2012 and FY 2013 on June 11 and April 27, 2021, respectively. **However, fiscal year 2011 closeout which was pending, EPA provided via email the closeout final action notification.** Thus, once EPA approved disbursements to PRASA, DOH continued doing them from the oldest grant opened. Now with PRASA's debt restructure agreement in place, the oldest grant open is from FY 2014. As of today, the cash draws that remained pending at the time of the beginning of the cut off are completely executed. DOH is in the process of preparing the final FFR for fiscal years 2014 and 2015 and expects to submit them by September 30, and December 2022. Therefore, the oldest grant open will be that of the FY 2016.

- Evaluate reimbursement requests from the “loanee”<sup>2</sup>, related to projects whose eligible cost resulted greater than the estimated assistance established. The requests received for these projects which were previously included in IUPs, are eligible, comply with the DWSRF regulations and thus, are ready to proceed, therefore their requests will be approved immediately in order to use the ULO’s. Public announcement for this procedure was undertaken.
- Delayed projects, whether it is in their design and/or construction process, will be reevaluated in order to maintain or eliminate their financing. Also, projects that have been modified/revised due to the resiliency actions resulting from the Hurricanes Irma and Maria, as well as from the earthquake, where applicable, were also reevaluated in order to determine if their financing was eliminated or maintained in order to establish if their scopes were not changed. As of today, all this was executed.
- Develop a robust list of fundable/ready to proceed projects by revising the FY 2014 Priority List. Such revision was undertaken immediately and no public hearing is necessary because these projects are in open grants/IUPs and were previously subject to this process. On an annual base, this robust list is revised in the corresponding Intended Use Plan. For fiscal year 2021,

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<sup>2</sup> Currently PRASA is the sole “loanee” or entity requesting and receiving loans from the DWSRF.

also, the robust list was revised to include additional \$16,601,522.24 that were available resulting from PRASA's debt restructure agreement. These funds corresponded to certain financed projects that continue included in the list, but no disbursements were executed or whose construction had not started at the time of the federal cut-off and afterwards, when the debt restructure agreement was reached. We must clarify that most of these projects remain in the robust list as "overruns" due their high cost and or due to the limitation in the annual allotment, and thus, they required more funds in order to enable their completion. Nevertheless, as mentioned above, these projects will also be examined to determine changes due to resiliency actions. As of today, this was examined and the \$16,601,522.24 were included in the FY 2019, 2020, and 2021 Financial Agreement that is expected to be executed in the last quarter of 2022 or at most in the first quarter of 2023.

- Once all current in-house requests are processed from the oldest existing grant which is fiscal year 2016, this Department will continue processing requests from the oldest existing grant and subsequent grant. At this point, the grant that will be considered the oldest existing grant should be 2016.
- Current in-house requests and subsequent new ones will be processed from the federal portion of the oldest grant and subsequent grants, being the 2015 grant the oldest one. As of today, requests pending execution at the

time of the cut-off were processed from the oldest existing grant fiscal year 2012 through 2014 and until these ULO's are used. The ULOs have been lowered as of September 20, 2022.

DOH had proceeded with the temporary delay in the use of the repayment funds, based on the information provided by EPA regarding the ULO's. As indicated by EPA, DOH "could temporarily suspend using repayment funds for a year or two until the "legacy" ULO funds are drawdown". We must indicate that the Government of Puerto Rico has restituted the full amount of funds that were deposited in the GDB at the time of the cut-off as well as the matching funds that were also deposited there. Therefore, in restarting the program, DOH will use the funds that were pending disbursement and that are associated to those loans that were restructured and that the agreement stipulated its disbursement in order to give closure to these loans that correspond to fiscal years 2009 through 2014. Once this total closure is reached, the balance available in repayments will continue being delayed-in-use in order to lower ULO's balances. As of today, this remains as DOH's position.

- DOH will focus on the ready-to-proceed projects and/or with the projects bypass procedures for projects not yet ready-to-proceed.

- DOH is in coordination/notification of these initiatives to the current and up to date sole “loanee” PRASA and, as of today, DOH is coordinating these activities directly with PRIFA.
- DOH will be monitoring how the ULO’s diminish and will evaluate the implementation of other alternatives and/or suggestions made by EPA to DOH as an ULO’s reduction plan.

It is important to know that DOH was not able to continue the implementation of the ULO’s Reduction Strategy from fiscal year 2016 up to mid-September 2019 due to several issues: the federal cut-off, PRASA’s serious financial distress, forbearance and debt restructure request to this Department and the EPA; EPA did not authorize further cash draws due to PRASA’s request of the DWSRF debt restructure, and the delay in the negotiations and reach of the agreement that took almost four years. We have to point out that after the cut-off was eliminated for PRASA, DOH understands that the procedure to use funds under fiscal year 2015 to 2021 funds will continue similar to that ULO Strategy previously discussed and as now slightly modified, taking into consideration that certain projects restarted its construction. It is important to note that the Consolidated Appropriations Amendments, 2018, as well as the Bipartisan Budget Act of 2018 provided for the use of funds under fiscal year 2015 to 2017 and partially those of FY 2018 to be awarded as subsidy. Also, the Continuing Appropriation of 2019 of February 15, 2019 or the Continuing Appropriation of 2020, as well as the Consolidated Appropriations, 2021 and 2022 have certain provisions regarding the award of funds as a subsidy, particularly

the provisions related to hardship loans, as well as the extension of the repayment period. Also, regarding the match requirement waived by the Bipartisan, 2018 and provided by DOH, a credit was claimed as part of the FY 2021 grant application. EPA's procedure to undertake this claim was provided, and based on this, during 2022 all the information was submitted to EPA and is pending approval.

As previously stated, the PRASA's debt restructure was signed in July 26, 2019, and the cut-off was totally riddled in September 5, 2019. Therefore, DOH reinitiated the disbursement process for project expenses that remained pending at the time of the cut-off. As of today, all pending disbursements were evaluated and executed where applicable.

This Intended Use Plan (IUP) includes:

- an anticipated financing schedule for this IUP period;
- specifics on how DOH proposes to use available DWSRF funds as well as any ULO's that may be pending;
- a description of the goals (short and long term) of the DWSRF program;
- a description of the state DWSRF program's coordination of funding priorities with the state drinking water enforcement agency;
- a Robust Readiness Project Priority List of eligible projects to receive DWSRF financing;
- cost estimates for listed projects;
- an estimate of funds anticipated to be available for financial assistance;



- criteria for selecting projects to receive financial assistance;
- criteria for determining which communities qualify for hardship loan;
- criteria for determining systems qualifying for the additional subsidization if applicable;
- criteria for determining equivalency projects;
- the project scoring, ranking and selection system;
- a response to comments on the proposed ranking system;
- a discussion regarding the state’s strategy to responsibly and expeditiously make use of set-asides un-liquidated funds from capitalization grants still open from more than two years earlier than the creation of the IUP;
- indication if the state is designating green projects and the method-criteria used for designating, if applicable; and
- indication if the state accomplished all the previous Work Plan enumerated goals.

## **2.0 SHORT AND LONG-TERM GOALS**

The SDWA Amendments of 1996 (Public Law 104-182) authorize the DWSRF to assist public water systems finance the cost of infrastructure needed to achieve or maintain compliance with SDWA requirements and to protect public health. The SDWA Amendments also establish strong new emphasis on preventing contamination problems through source water protection and enhanced water system management. Central to this emphasis is the development of Commonwealth prevention programs, including source water protection, capacity development and operator certification.

The DWSRF will help ensure that the Commonwealth's drinking water supplies remain safe and affordable and that drinking water systems that receive funding will be properly operated and maintained. The objectives of the DWSRF program include achieving compliance with the SDWA, addressing public health priorities, assisting systems to ensure affordable water and maintaining the long-term viability of the Fund. It is also DOH's goal to maximize the amendments to the law and regulations in order to provide more benefits when undertaking drinking water infrastructure construction. As an example of this, during the last years DOH has been able to use funds under the green project reserve that were directed towards water and energy efficiency, as well as to provide additional subsidies in order to avail the construction of infrastructure and thus provide the means to counteract the global economic distress/rescission, as stated previously.

### **2.1 Short-Term Goals**

- Establish and maintain a continuous technical assistance support process available to drinking water systems for availing compliance.
- Provide technical assistance to community water systems in their process of establishing asset management plan.
- Identify and determine feasible and affordable general compliance action plans available for systems implementation.
- Coordinate a mechanism or process for consolidating and/or eliminating existing non-viable small public drinking water systems.

- Use funds under the set-asides to establish a mechanism to assist and evaluate systems in order to improve their compliance and assure public health protection.
- Establish a technical and/or financial assistance mechanism to provide small systems that are in non-compliance, due to technical, financial and managerial reasons, with the necessary tools to foster compliance and access to funds and subsidies.
- Evaluate alternative solutions by assessing Best Management Practices (BMP) and Best Available Technology (BAT) to avail systems compliance.
- Promote the use of asset management and the establishment of asset management plan in community water systems.

## **2.2 Long-Term Goals**

- Focus on providing assistance to systems that are in the process of attaining and maintaining capacity.
- Promote and maintain an infrastructure construction program for the drinking water facilities of the Commonwealth.
- Evaluate the DWSRF operating structure to ensure the program is administered in a manner that assures its revolving nature in perpetuity.
- Assist PRASA in their quest to improve drinking water quality and dependability in the Commonwealth.

### **3.0 FINANCIAL STATUS/TOTAL DWSRF MONIES**

Initial capitalization for the Commonwealth DWSRF Program was provided from the 1997 and 1998 federal Capitalization Grants and Commonwealth matching dollars. The minimum state match requirement was 20% of each federal award. The state match requirement for the State Program Management Set-Aside **was** met with-in-kind services provided by PWSS staff and a dollar-to-dollar appropriation from the Commonwealth, if necessary. However, since fiscal year 2017, match for the State Program Management set aside was eliminated for capitalization grants awarded after the WIIN Act's passage (December 6, 2016).

It is important to know that the "Bipartisan Budget Act of 2018 states that "as a result of disaster declaration related to Hurricanes Irma and María "all existing grant funds that are available but not drawn down shall not be subject to the matching or cost share requirements of sections 602(b)(2), 602(b)(3) of the Federal Water Pollution Control Act nor the matching requirements of section 1452(e) of the Safe Drinking Water Act and shall be awarded to such state or territory". This provision applies not only for the capitalization grants requested by the Commonwealth from FY 2015 to 2017 and partially, 2018, but also for the capitalization grants from 2012 through 2014 that have funds obligated but not disbursed. As previously stated, a credit related to compliance with the match requirement can be claimed if provided for those years for which it was waived. Puerto Rico provided this match, particularly for FY 2012 through 2014 and said match credit was claimed. As of today, DOH provided all the evidence and back-up documentation related to the match provided and is waiting EPA's determination, now for inclusion in the 2022 application.

In accordance with the AWIA 2018 and the Consolidated Appropriations, 2021 this will not apply to the FY 2019, FY 2020 and FY 2021 regular capitalization grants. Regarding the additional appropriation under *AWIA 2020: "Assistance for Areas Affected by Natural Disasters"* where an eligible system shall be eligible to receive among others, loans with additional subsidization (including forgiveness of principal, negative-interest loans, or grants (or any combination thereof)) for the purpose described in AWIA 2020 and the AWIA subsection 2020(e) *Additional Drinking Water State Revolving Fund Capitalization Grants*. As of June 11, 2019, we were informed by EPA that Puerto Rico was not included under the DWSRF to participate of these funds, being this a Congressional discretion.

Referencing the Office of Inspector General report of the US EPA dated April 26, 2017, as of November 7, 2016, the GDB's records showed a combined revolving funds balance (consisting of state matches, repayments and interest) of over \$194.5 million, which have been impaired by the lack of bank assets and are therefore not available for use. Nevertheless, during the past years and prior to the cut-off, these funds have been available to the DWSRF for providing assistance in addition to the annual capitalization grant. It is important to note that as of December 21, 2018 the combined revolving funds balance (consisting of state matches, repayments and interest) that Puerto Rico included in its fiscal plan submitted to the PROMESA Board, were restituted to the DWSRF accounts in order to guarantee the perpetuity of the Program.

The following table provides information of the set-asides funds available from previous grants and cash draws executed.

Set-aside*	Previous Awards <sup>Δ</sup>	Cash Draw as of June 30, 2022	Obligations	Available
Technical**	\$4,883,564	\$4,170,992.52 <sup>†</sup>	\$712,571.48	\$0.00
State Program Management <sup>ΔΔ</sup>	\$220,220	\$0.00 <sup>∞</sup>	\$220,220	\$0.00

\* There is no work plan required for administrative set-aside. The Commonwealth of Puerto Rico will be using the amount of \$280,360 or 4% of the \$7,008,000 allotment corresponding to the FFY 2022 Capitalization Grant for the administrative set aside.

DOH reserves the authority to take from future capitalization grants funds not requested at this time from this capitalization grant for the applicable set-aside.

<sup>Δ</sup> This amount includes FY 2021 capitalization grant technical set-aside.

\*\* The Commonwealth of Puerto Rico will establish the amount of \$140,160 or 2% of the \$7,008,000 allotment corresponding to the FFY 2022 Capitalization Grant for the Technical Assistance set aside.

<sup>ΔΔ</sup> The State Program Management set-aside corresponding to the FY 2022 capitalization grant will be established in the amount of \$700,800 or 10%. DOH reserves the authority to take from future capitalization grants funds corresponding to funds not requested at this time from this capitalization grant for the State Program Management set-aside.

<sup>†</sup> This amount includes cash draws in process before June 30, 2022.

<sup>∞</sup> It is important to note that although this set-aside was established in FY 2020, the cash draws execution were not possible since 2020 through 2022. Due to problems in the grant award and as indicated by EPA the need to deobligate the funds and then obligate them, a new amendment was necessary.

As of today, PRASA's debt restructure agreement was undertaken as of July 2019, and all pending cash draws were executed restarting the program in full in this way. PRIFA is now the entity that will be executing these fund transfers for projects, as well as for the set-asides. Since fiscal year 2018-19 there is a Trustee that is also participating in the cash draw execution process. Therefore, after having restarted the flow of funds the construction of drinking water infrastructure projects was resumed.

We have to point out that although there was a partial riddance to the cut off in 2017 for the use of the funds under the set asides, we must mention that it impaired DOH's ability to comply with contract terms for more than a year. In regard to the execution of a contract/partnership with a private entity and all consulting services to undertake activities related to assistance to small systems we must indicate the following. Notwithstanding, DOH's intention of executing a

contract since the cut-off (fiscal years 2017-18 and 2018-19), it was not possible not only due to the cut-off but also due to the impact of Hurricanes Irma and María and the general economic situation and the resiliency activities necessary for the operation of the Government of Puerto Rico. Notwithstanding the impact of the two hurricanes, DOH's gave continuity to the activities planned that were hindered and/or postponed, but in a quite slow pace.

We must emphasize that since the beginning of 2020 this Department has encountered additional challenges that impaired also the ability to execute a contract/partnership with a private entity: earthquakes and the coronavirus pandemic. As of today, they both prevail and in addition to this we are under constant electric power outages. These in turn provoke the loss of internet and limit the human resources working hours. We must point out that since the beginning of 2020 this Department has encountered *serious and overwhelming* challenges that still today prevail. Particularly, the loss of electric power is becoming more challenging fact because now, if we have any sort of atmospheric disturbance, there is an immediate loss of electric power. Whether it is just a simple rainy day or small earthquake, power is lost in different areas of the island as well as internet.

Nevertheless, the government in general has returned to "normal" after two years of pandemic and earthquakes and power outages. Notwithstanding, we have to mention that regarding the circuit riders pilot project, as we indicated in our previous IUP, DOH made all possible exertions to execute a new contract during fiscal year 2020-2021 with a private entity or contractor and it was not possible. Only individual professional services contracts were executed trying to maintain in general the expected time frames as in the past.

For FY 2020-21 it was expected a three-phase contract with a possible extension of two additional years. DOH’s initial intention<sup>3</sup> included an ambitious plan but the time gone at this point could not be replaced moreover when we have so many challenges that produce a halt in the schedule of activities.

After examining all the current challenges, it was more realistic to execute the new contract with a time frame of approximately three years (FY 2020-21, FY 2021-22 and FY 2022-23), with the possibility of extension using the funds in three phases of one year. DOH’s plan was to move forward with the execution of this contract that would be providing assistance to all the systems thus the outreach will be expanded.

The activities of the contract would be similar to the ones described in the original contract which ended in September 2016. The objective was to have under contract activities in three phases to the effect of the use of money under the FIFO concept. As indicated previously, the estimates for the First, Second and Third phases were revised. The Fourth phase is eliminated. The use of funds may vary based on activities undertaken during the project period. Monthly visits would be undertaken to each system during the project period, at least one visit every month to each system alternate activities between months.

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<sup>3</sup> Prior to all the financial and environmental situations, was to undertake the contract in several phases with a wish list of a total of four phases, each of two years, where in a total of eight years we would make the catch up the time lost in of the cut-off. Phases of execution of contract:

1 <sup>ST</sup> PHASE	2015-16	2016-17
2 <sup>ND</sup> PHASE	2017-18	2018-19
3 <sup>RD</sup> PHASE	2019-20	2020-21
4 <sup>TH</sup> PHASE	2021-22	2022-23



It is important to note that DOH moved during the fourth quarter of FY 2020 to hire by contract the necessary personnel to undertake the activities scheduled under a new pilot project under the State Program Management set-aside, that would also use funds from the Technical Assistance set-aside. During the past fiscal year, the personnel hired has undertaken certain activities but there is still other pending completion because these are undertaken by schedule of activities or phases. Also, we must mention that they are delayed due to personnel turnover. During this fiscal year, DOH established the 2% available for the Technical Assistance set-aside. Regarding the State Program Management set-aside corresponding to the 2022 capitalization grant, 10% or \$700,800 was established. This Department reserves the right to take from future capitalization grants amounts not claimed at this time. The 2% established in fiscal year 2020 will be used for ongoing activities as programmed for this set-aside and initiated in FY 2021. As stated previously, DOH reserves the authority or right to take from future capitalization grants amounts not requested at this time from the FY 2022 total annual Federal Capitalization Grants under the State Program Management assistance set-aside. At the time, this amount may be used to continue activities under this set-aside.

During FY 2021, DOH continued with the alternative of executing contracts in order to use several tools simultaneously. Thus, DOH insisted during the last fiscal year in the preparation of circuit riders' alternatives that manage different assistance methodologies that would avail compliance of the systems and capacity development attainment.

Thus, the contract designed started with the use of remaining balances of funds from previous year's award under the line item of Contractual under Technical assistance and the amount established for the State Program Management during FY 2020. In this way we tried to catchup in time lost and money available during the cut-off giving continuity to the assistances provided to the systems. The activities of the contract were similar to the ones described in the original/initial contracts, when the cut-off was already in force.

For this fiscal year DOH's expectation is to complete the activities started and give support to the PWSS in the assistance provided to the drinking water systems. DOH may also use these funds to promote asset management in the community water systems.

As stated previously, these amounts estimated were revised in order to use the funds in three phases, thus, using remaining balances of funds of previous years under the technical assistance set-aside, mainly. Details are provided in the Set aside Work Plan submitted in June 2021 and June 2022. Use of funds are assigned as follows:

- the first phase will continue with the use of remaining funds from fiscal years 2014, 2015 and 2016, thus, an estimate of \$313,272 will be cash drawn based on activities undertaken. **We must note that development of activities is also delayed and may continue as such due to the coronavirus pandemic, the general fiscal situation of the government, thus, the use of funds is also delayed due to the prevailing situation.**
- the second phase will continue with the use of remaining funds from fiscal years 2017 and 2018, thus, an estimate of \$229,737 will be cash drawn based on activities undertaken;  
and

- the third phase will continue with the use of remaining funds from fiscal year 2019, thus, an estimate of \$294,893 will be cash drawn based on activities undertaken.

As previously indicated, the time under or subject to the cut-off and thus taken to complete PRASA's the debt restructure affected the development and use of funds of all the grants. Not only awarded grants but also those in process of award by EPA. Significant changes and conditions were established affecting terms of awarding as well as procedures of management. For grants open whose projects were under construction this construction was halted and terminated by convenience once the cut-off was established. Also, there were grants open whose loans were still pending execution. After the riddance to the cut-off, some pending disbursements as detailed in the debt restructure agreement were prepared and DOH started the process of execution. The loans pending execution corresponding to funds from fiscal year 2015 through 2017 funds were prepared and executed as one financial agreement including these three year's funds. Also, a new loan corresponding to the funds of FY 2018 was prepared and submitted to PRIFA for its execution. In order to cope with the time frame of the cut-off and the general financial situation and the execution of pending loans, the grants opened at the time and those awarded during the cutoff were all revised and amended to this effect by EPA. Currently, DOH is working on the loan agreement for the use of the 2019 through 2021 grant funds available for financial agreement and expect to have it executed during the first or second quarter of 2023. **Appendix I** provides all the information related to available funds under each grant and detail tracking of its use.

The cash draw proportionality for FY 2022 funds will be 80.77% federal and 19.23% state and is also described in the disbursement schedules. It is important to note that the funds corresponding to the state match in the amount of \$1,401,600 will be provided as follows: \$1,011,813.18 from the overmatch credit approved to DOH by EPA and the remaining \$389,786.82 assigned to DOH by the Office of Management and Budget of the Government of Puerto Rico. We must emphasize that DOH was waiting for EPA's determination of the credit of the match that we provided under the Bipartisan Act totaling \$1,011,813.18. This overmatch credit claim amount was still pending final approval. Initially, it was included as part of the FY 2021 IUP corresponding to the capitalization grant request but because no response was provided to DOH by EPA, DOH provided the 2021 match by the Office of Management and Budget of the Government of Puerto Rico. Recently, in 2022 EPA requested data sustaining the match provided and as of today, DOH did provide all the backup data sustaining the match provided under the Bipartisan 2018 and EPA, via email, notified that it should be included in the capitalization grant application for FY 2022. As such, it was included and provided to EPA.

SOURCES OF FUNDS	CAP. GRANT 2022	TOTAL
Grant Funds <sup>v</sup>	\$7,008,000	\$7,008,000
State Match	1,401,600	1,401,600
Repayment	5,000,000	5,000,000
<b>Total Resources</b>	<b>\$13,409,600</b>	<b>\$13,409,600</b>
<b>USES SET-ASIDES** (ref. to Sec. 4, Set Asides, for detailed description of allocations)</b>		
Administration (4%)	\$280,320	\$280,320
Technical Assistance (2%)	140,160	140,160
State Program Management (10%)	<b>700,800</b>	<b>700,800</b>
<b>Total Set Asides</b>	<b>\$1,121,280</b>	<b>\$1,121,280</b>
<b>Amount available for Projects Financial Agreement</b>		<b>\$12,288,320</b>
<b>FINANCIAL AGREEMENT DISCLOSURE</b>		
Mandatory Congressional 14% <u>Subsidy</u>		<b>\$ 981,120</b>
Additional Disadvantage Comm. Subsidy or Limited 35% Subsidy		<b>\$ 2,452,800</b>
<b>TOTAL AMOUNT FOR LOAN BY THE NOTE</b>		<b>\$8,554,400</b>
<p><sup>v</sup> Of the capitalization grant amount, the following two subsidies may be established as subsidized loan: the mandatory congressional (14%), and the limited 35%/disadvantage communities (no less than 12%, but no more than 35%, as per the AWIA 2018 and the Consolidated, 2022 amendments to the SDWA 1452(d)).</p> <p>* State matching funds in the amount of \$389,786.82 will be provided by the Office of Management and Budget of the Government of Puerto Rico and \$1,011,813.18 from the overmatch credit claimed.</p> <p>** The set-asides monies from FY 2021-22 were established as follows: 4% or \$280,320 for the Administration of the Program; 2% or \$140,160 for the Technical Assistance set-aside; and 10% or \$700,800 for the State Program Management set-aside. DOH reserves the authority to take from future capitalization grants funds not requested under the State Program Management set-aside of the FYs 2020 and 2021.</p>		

A state must annually use at least 15% of all funds credited to the fund account to provide loan assistance to systems serving fewer than 10,000 persons (Section 1452(a)(2)), to the extent that there is a sufficient number of eligible projects to fund. It is the Commonwealth's strategy to award loans to systems that eliminate or consolidate small systems serving a population of 10,000 or less. The following table presents a summary of the loan assistance provided by the Commonwealth to small systems since the inception of the Program.

ASSISTANCE TO SMALL SYSTEMS WITH POPULATION < 10,000, BY LOAN AND FISCAL YEAR						
YEAR	PROJECT NAME	< 10,000	> 10,000	POP.	%	CUM %
97-98	Naguabo-Río Blanco		\$ 12,393,319	141,308		
	Mayaguez-Ponce de León		\$ 4,827,235	150,000		
	Guayama-Carite	\$ 2,880,963		5,575		
	Yabucoa-Guayabota	\$ 2,383,802		1,096		
	Guayama-Culebras	\$ 584,720		1,193		
	Utua-Urbana		\$ 1,419,775	25,068		
	<b>\$24,489,814</b>	<b>\$ 5,849,485</b>	<b>\$ 18,640,329</b>		<b>23.89</b>	<b>23.89</b>
1999	Naguabo-Río Blanco		\$ 4,322,131	141,308		
	Río Grande-El Yunque		\$ 7,894,907	48,000		
	<b>\$12,217,038</b>	<b>\$ -</b>	<b>\$ 12,217,038</b>		<b>0.00</b>	<b>15.94</b>
2000	Mayaguez-Ponce de León		\$ 4,851,945	150,000		
	Guayama-Carite	\$ 195,857		5,575		
	Yabucoa-Guayabota	\$ 914,198		1,096		
	Guayama-Culebras	\$ 215,280		1,193		
	Utua-Urbana		\$ 1,920,225	25,068		
	Río Grande-El Yunque		\$ 4,599,587	48,000		
	<b>\$12,697,092</b>	<b>\$ 1,325,335</b>	<b>\$ 11,371,757</b>		<b>10.44</b>	<b>14.52</b>
Transfer	Tanque Sergio Cuevas		\$ 11,055,165	771,169		
	<b>\$11,055,165</b>	<b>\$ -</b>	<b>\$ 11,055,165</b>		<b>0.00</b>	<b>11.87</b>
2001	Río Grande-El Yunque		\$ 11,900,870	48,000		
	Mayaguez-Ponce de León		\$ 848,662	150,000		
	<b>\$12,749,532</b>	<b>\$ -</b>	<b>\$ 12,749,532</b>		<b>0.00</b>	<b>9.80</b>
2002	Añasco-Nueva		\$ 12,245,082	28,348		
	<b>\$ 12,245,082</b>	<b>\$ -</b>	<b>\$ 12,245,082</b>		<b>0.00</b>	<b>8.40</b>
2003	Las Marias		\$ 12,171,438	20,000		
	<b>\$12,171,438</b>	<b>\$ -</b>	<b>\$ 12,171,438</b>		<b>0.00</b>	<b>7.35</b>
2004	Naguabo-Cubuy (IA, IB & II)	\$ 6,247,832		3,541		
	Hatillo-Camuy WTP		\$ 2,873,000	22,360		
	Naranjito-Anones	\$ 1,551,238		2,172		
	Morovis-Sana Muerto	\$ 1,954,000		3,285		
	<b>\$12,626,070</b>	<b>\$ 9,753,070</b>	<b>\$ 2,873,000</b>		<b>77.25</b>	<b>15.35</b>
2005	Yauco Urbano Nueva		\$ 13,262,520	16,000		
	<b>\$13,262,520</b>	<b>\$ -</b>	<b>\$ 13,262,520</b>		<b>0.00</b>	<b>13.71</b>
2006	Añasco-Nueva		\$ 8,498,531	28,348		
	Caguas Norte Filtration Plant		\$ 4,230,178	140,500		
	<b>\$12,728,709</b>	<b>\$ -</b>	<b>\$12,728,709</b>		<b>0.00</b>	<b>12.69</b>
2007	Río Grande-El Yunque		\$ 11,628,071	48,000		
	<b>\$11,628,071</b>	<b>\$ -</b>	<b>\$ 11,628,071</b>		<b>0.00</b>	<b>11.67</b>

**ASSISTANCE TO SMALL SYSTEMS WITH POPULATION < 10,000, BY LOAN AND FISCAL YEAR continues...**

YEAR	PROJECT NAME	< 10,000	> 10,000	POP.	%	CUM %
2008	Yauco Urbano Nueva		\$ 5,254,345	48,000		
	Naguabo-Río Blanco & Maizales Phases (1A, 1B & II)	\$ 1,810,903		4,036		
	Naranjito - PF Anones	\$ 560,633		3,120		
	Hatillo - PF Camuy-Hatillo		\$ 1,819,316	39,200		
	<b>\$9,445,197</b>	<b>\$ 2,371,536</b>	<b>\$ 7,073,661</b>		<b>25.11</b>	<b>12.49</b>
2008	Hatillo – PF Camuy-Hatillo		\$ 2,276,000	39,200		
	Las Marias-Phase I – Overrun		1,006,036	7,871		
	<b>\$3,282,036</b>	<b>\$ -</b>	<b>\$ 3,282,036</b>		<b>30.71</b>	<b>12.87</b>
2009	Caguas Norte Filtration Plant*		\$ 769,822	140,500		
	Guayama Urbano WTP		3,453,190	14,752		
	Arecibo WTP	\$ 1,888,800		3,700		
	Camuy WDS (II)		3,400,000	80,189		
	San Germán		2,790,000	19,500		
	Lares -Phase III	1,412,330		693		
	Lares -Phase II	1,607,071		565		
	Trujillo Alto-Sergio Cuevas WTP		1,410,202	771,169		
	Ciales -Las Delicias WTP	1,537,920		935		
	Caguas Sur Filtration Plant		1,020,000	34,000		
	<b>\$19,289,335</b>	<b>\$ 6,446,121</b>	<b>\$12,843,214</b>		<b>33.42</b>	<b>15.11</b>
2010	Morovis Sur WTP		\$ 4,257,757	14,570		
	Morovis Urbano WTP	2,000,000		9,714		
	Cedro Arriba WTP-Naranjito	2,222,646		9,873		
	Añasco Water Intake		4,636,745	88,144		
	Hatillo Raw Water Intake		5,000,000	39,200		
	Rochas WTP-Moca	3,000,000		2,357		
	La Máquina WTP- Sabana Grande	2,000,000		3,207		
	Hatillo-Camuy – Phase II Overrun		3,984,502	39,200		
	Lajas-San Germán, Trans Lines-OR		4,008,664	55,050		
	<b>\$23,117,148</b>	<b>\$ 9,222,646</b>	<b>\$13,894,502</b>		<b>39.90</b>	<b>17.97</b>
2011	Valenciano WTP, Juncos		\$19,645,275	22,137		
	Camuy-Hatillo-Quebradillas, Ph. II		1,883,600	39,200		
	<b>\$21,528,875</b>		<b>\$21,528,875</b>		<b>0.00</b>	<b>16.02</b>
2012	Valenciano WTP, Juncos		**\$ 7,814,489	22,137		
	Las Marías, Phase II-B	2,000,000		7,871		
	<b>\$ 9,814,489</b>	<b>\$ 2,000,000</b>	<b>\$ 7,814,489</b>		<b>0.00</b>	<b>15.35</b>

ASSISTANCE TO SMALL SYSTEMS WITH POPULATION < 10,000, BY LOAN AND FISCAL YEAR continues						
	PROJECT NAME	< 10,000	> 10,000	POP.	%	CUM %
2013	Coto Laurel WTP		♦♦\$ 4,000,000	14,060		
	Ponce Vieja WTP		4,036,172	170,075		
	Ponce Nueva WTP		4,918,195	170,075		
	<b>\$12,954,367</b>	<b>\$ -</b>	<b>\$12,954,367</b>		<b>0.00%</b>	<b>15.35%</b>
2014	Guayama Urbano WTP-Overrun		865,844	14,752		
	Camuy-Hatillo-Quebradillas, Ph. II		6,419,231	39,200		
	Lajas-San Germán, Trans Lines-OR		1,105,698	55,050		
	Ciales -Las Delicias WTP	\$3,237,886		935		
	Guajataca WTP, Isabela		1,596,661	11,400		
	Guaraguao WTP, Ponce	500,000		3,800		
	Jayuya Urbano WTP, Jayuya		2,393,410	12,500		
	Cerro Gordo WTP, San Lorenzo		500,000	28,000		
	Toa Vaca WTP, New Sed. Tank		500,000	40,000		
	Fajardo WTP, Fajardo		763,000	35,000		
	Cerro Gordo Raw Water Intake, SL		500,000	28,000		
	<b>\$18,381,730</b>	<b>\$3,737,886</b>	<b>\$14,643,844</b>		<b>18.80%</b>	<b>17.57%</b>
2015*	<del>Valenciano WTP, Juncos</del>		<del>\$5,357,556</del>	<del>52,500</del>		
	<del>Caguas Norte Filtration Plant</del>		<del>216,218</del>	<del>140,500</del>		
	<del>Guayama Urbano WTP</del>		<del>644,778</del>	<del>14,752</del>		
	<del>Arecibo Esperanza</del>	<del>\$109,208</del>		<del>3,700</del>		
	Coto Laurel WTP, Ponce		2,957,428.00	14,060		
	<del>Morevis Sur WTP</del>		<del>1,076,952.00</del>	<del>14,570</del>		
	Ponce Vieja WTP (Elimn)		6,917,614.39	170,075		
	Ponce Nueva WTP		5,302,352.00	170,075		
	<del>Morevis Urbano WTP</del>	-	<del>2,313,506.00</del>	<del>9,714</del>		
	<del>Cedro Arriba WTP</del>	<del>2,112,535</del>	-	<del>9,873</del>		
	<del>Enrique Ortega (La Plata) FP</del>		<del>801,449</del>	<del>291,000</del>		
	<del>Caguas Sur Filtration Plant</del>	-	<del>2,145,130.00</del>	<del>34,000</del>		
	<del>La Rocha WTP, Moca</del>	<del>\$ 230,000.00</del>		<del>2,357</del>		
	<del>La Máquina WTP, Sab. Grande</del>	<del>918,702</del>	-	<del>3,207</del>		
Hatillo Raw Water Intake		\$ 3,716,793.61	39,200			
	<b>\$18,894,188</b>	<b>\$ -</b>	<b>18,894,188.00</b>		<b>0.00%</b>	<b>16.40%</b>



ASSISTANCE TO SMALL SYSTEMS WITH POPULATION < 10,000, BY LOAN AND FISCAL YEAR, continues						
YEAR	PROJECT NAME	< 10,000	> 10,000	POP.	%	CUM %
2016*	Valenciano WTP, Juncos	-	\$5,000,000	52,500		
	Ponce Vieja WTP—New Tank	-	5,000,000	25,715		
	Vega Baja WTP	-	3,500,000	18,625		
	Corozal Urbana WTP	\$1,400,000	-	6,363		
	Jiménez WTP, Río Grande	140,000	-	1,230		
	Caguas Norte Filtration Plant	-	50,000	140,500		
	Guayama Urbano WTP	-	100,000	14,750		
	Arecibo WTP	100,000	-	3,700		
	Camuy	-	100,000	80,189		
	San Germán	-	100,000	19,500		
	Coto Laurel WTP, Ponce		1,898,424	14,060		
	Morevis Sur WTP	-	100,000	14,560		
	Ponce Vieja WTP, Ponce <del>(Elimn)</del>	-	100,000	170,075		
	Ponce Nueva WTP, Ponce		5,914,856	170,075		
	Morevis Urbana WTP	100,000	-	9,714		
	Cedro Arriba WTP—Naranjito	100,000	-	9,873		
	Las Mariás, Phase IIB	1,000,000	-	7,871		
	Ciales—Las Delicias WTP	100,000	-	935		
	Guajataca WTP, Isabela	-	500,000	11,400		
	Enrique Ortega (La Plata) FP	-	500,000	291,000		
	Caguas Sur Filtration Plant	-	200,000	34,000		
	Guaraguao WTP, Ponce	500,000	-	3,800		
	Añasco Water Intake		10,858,251	88,144		
	Hatillo Raw Water Intake		709,536	39,200		
	Rechas WTP—Moca	55,000	-	2,357		
	La Máquina WTP—Sab. Grande	50,000	-	3,207		
	Jayuya Urbano WTP, Jayuya	-	50,000	12,500		
	Cerro Gordo WTP, San Lorenzo	-	1,000,000	28,000		
Toa Vaca WTP, Villalba	-	100,000	400,000			
Cero Gordo Raw Water Intake	-	500,000	28,000			
Gurabo WTP, Gurabo	-	50,000	15,000			
	\$19,381,067	\$0	\$19,381,067		0.00%	15.40%

ASSISTANCE TO SMALL SYSTEMS WITH POPULATION < 10,000, BY LOAN AND FISCAL YEAR continues						
YEAR	PROJECT NAME	< 10,000	> 10,000	POP.	%	CUM %
2017*	Vega Baja WTP	-	<del>\$1,000,000</del>	18,625		
	Corozal Urbana WTP	<del>\$1,000,000</del>	-	6,363		
	Valenciano WTP, Juncos †	-	3,929,000	52,500		
	Jiménez WTP, Río Grande	712.97	-	1,230		
	Ponce Vieja WTP Distrib Tank, Ponce	-	3,000,000	170,075		
	Coto Laurel WTP, Ponce		1,389,249			
	Ponce Vieja WTP, Ponce (Elimn)		6,604,521			
	<b>\$7,993,770</b>	<b>\$0</b>	<b>\$7,993,770</b>		<b>0.00%</b>	<b>14.97%</b>
2018*	Corozal Urbana WTP, Corozal	<del>\$961,000</del>	-	6,363		
	Valenciano WTP, Juncos OJO-poner las 2 cruces	-	<del>\$2,000,000</del>	52,500		
	Termination of Valenciano WTP, Juncos		1,455,080	52,500		
	Coto Laurel WTP, Ponce		1,000,000	14,060		
	Ponce Vieja WTP, Ponce		2,000,000	170,075		
	Ponce Nueva WTP, Ponce		1,000,000	170,075		
	Culebrinas WTP, Aguadilla, Phase II		<del>2,000,000</del>	142,486		
	Enrique Ortega (La Plata) FP, Vega Alta	-	500,000	291,000		
	Culebrinas Raw Water Intake, Phase I, Aguadilla	-	<del>1,800,000</del>	142,486		
	Cerro Gordo WTP, San Lorenzo		2,000,000	28,000		
	Cerro Gordo Raw Water Intake, S Lor		2,000,000	28,000		
	Hatillo Raw Water Intake, Hatillo		1,000,000	39,200		
	Añasco Water Intake, Añasco		400,500	88,144		
Termination of Toa Vaca, Villalba		1,000,000	40,000			
	<b>\$11,855,580</b>		<b>\$11,855,580</b>		<b>0.00%</b>	<b>14.40%</b>
2019*	Corozal Urbana WTP, Corozal	<del>\$73,377</del>		6,363		
	Coto Laurel WTP, Ponce		\$1,014,108	14,060		
	Ponce Vieja WTP, Ponce		2,014,108	170,075		
	Ponce Nueva WTP, Ponce		1,014,108	170,075		
	Hatillo Raw Water Intake, Hatillo		790,000	39,200		
	Culebrinas Raw Water Intake, Phase I, Aguadilla	-	<del>2,014,108</del>	142,486		
	Termination of Toa Vaca, Villalba		1,014,108	40,000		
	Termination of Valenciano WTP, Juncos		5,161,850	52,500		
	Cerro Gordo WTP, San Lorenzo		2,028,216	28,000		
	Cerro Gordo Raw Water Intake, S Lor		2,014,108	28,000		
	<b>\$15,050,606</b>		<b>\$15,050,606</b>		<b>0.00%</b>	<b>13.80%</b>

ASSISTANCE TO SMALL SYSTEMS WITH POPULATION < 10,000, BY LOAN AND FISCAL YEAR continues						
YEAR	PROJECT NAME	< 10,000	> 10,000	POP.	%	CUM %
2020*	Culebrinas Raw Water Intake, Aguadilla, Phase I		\$3,000,000	142,486		
	<del>Culebrinas WTP, Aguadilla, Ph. II</del>	-	<del>2,645,252</del>	<del>142,486</del>		
	Ponce Vieja WTP, Ponce		3,000,000	27,215		
	Cerro Gordo WTP, San Lorenzo		2,000,000	28,000		
	Cerro Gordo Raw Water Intake, S Lor		3,000,000	28,000		
	Termination of Juncos Valenciano		1,552,540	52,500		
	Coto Laurel WTP, Ponce		1,000,000	14,060		
	Ponce Nueva WTP, Ponce		2,000,000	170,075		
	Termination of Toa Vaca, Villalba		2,000,000	40,000		
	<b>\$17,552,540</b>		<b>\$17,552,540</b>		<b>0.00%</b>	<b>13.10%</b>
2021	Culebrinas Raw Water Intake, Aguadilla, Phase I		\$2,100,000	142,486		
	Coto Laurel WTP		1,000,000	14,060		
	Ponce Vieja WTP, Ponce		3,000,000	27,215		
	Cerro Gordo WTP, San Lorenzo		2,000,000	28,000		
	Cerro Gordo Raw Water Intake, San Lorenzo		3,000,000	28,000		
	Termination of Juncos Valenciano		10,082,682	52,500		
	Ponce Nueva WTP, Ponce		3,000,000	170,075		
	New CT / Distribution Tank FP Corozal (Termination), Corozal	\$2,180,000		6,363		
	Termination of Toa Vaca		3,000,000	40,000		
	<del>Salinas WTP</del>	-	<del>8,000,000</del>	<del>29,239</del>		
	<b>\$29,362,682**</b>	<b>\$2,180,000</b>	<b>\$27,182,682</b>		<b>7.40%</b>	<b>12.70%</b>

ASSISTANCE TO SMALL SYSTEMS WITH POPULATION < 10,000, BY LOAN AND FISCAL YEAR continues						
YEAR	PROJECT NAME	< 10,000	> 10,000	POP.	%	CUM %
2022 (Pending approval)	New CT / Distribution Tank FP Corozal (Termination), Corozal	\$1,289,120		6,363		
	Termination of Juncos Valenciano		5,299,200	52,500		
	Coto Laurel WTP		1,000,000	14,060		
	Ponce Vieja WTP, Ponce		3,000,000	27,215		
	Cerro Gordo WTP, San Lorenzo		500,000	28,000		
	Cerro Gordo Raw Water Intake, San Lorenzo		1,200,000	28,000		
		<b>\$12,898,320</b>	<b>\$1,289,120</b>	<b>\$10,999,200</b>		<b>10.50%</b>
<p>Note: ARRA 2009 funds are not included.</p> <p>* Due to the years of federal funds cut-off, hurricanes/earthquakes and debt restructure process/agreement, the construction and development of projects was affected. All projects suffered changes in their construction status. The DWSRF projects under construction were terminated by convenience by PRASA. Others were either funded through other financial mechanisms, constructed with PRASA funds, FEMA funds, Emergency funds. For other projects, PRASA determined that they were not necessary, eliminated or consolidated them. During FY 2020, as a restart to the DWSRF Program project construction financing it was agreed with EPA that a single coordinated revision effort of these three years IUP's could be undertaken. It was necessary due to the time lapse passed and all the significant changes that occurred. This revision could be considered or undertaken in the most recent IUP and as part of its public participation process. To this effect through the public participation process undertaken for the FY2020 IUP which ended in December 2020, this revision was accomplished. Thus, regarding the loans pending execution corresponding to these three years a total of five projects were financed with the funds under these IUPs in accordance with the Bipartisan Act and with the restitution of repayment funds by the government of Puerto Rico and remanent or unused funds resulting from the debt restructure agreement. The projects are: Ponce Nueva WTP, Coto Laurel WTP, Hatillo Raw Water Intake, Añasco Raw Water Intake, Ponce Vieja WTP. With this financing DOH continues the restart of the Program with the expectation of the execution of the loan corresponding to the FY 2018 grant funds in the first quarter of FY 2022. It must be noted that as a result of this revision, fund redistribution was necessary among prevailing projects for the corresponding year such as those to be financed with the FY 2018 funds: Ponce Nueva WTP, Coto Laurel WTP, Hatillo Raw Water Intake, Añasco Raw Water Intake, Ponce Vieja WTP, Cerro Gordo WTP, Cerro Gordo Raw Water Intake, Termination of Toa Vaca WTP, and Termination of Juncos-Valenciano.</p> <p>† Redistribution of 2019 funds due to Realotment of \$99,000 awarded to PRDWSRF.</p> <p>** This amount includes \$16,601,522 available to be reassigned due to the fact that, as of date of PRASA's Debt Restructure Agreement these funds had not been disbursed because the projects did not begin their construction and were not counted as part of the Agreement.</p>						

There are small systems that will not have the capacity to enter into a loan, thus, 15% will be limited. Notwithstanding, it is the strategy of the Commonwealth to fund those projects that eliminate or consolidate small systems that do not have the capacity to enter into a loan. Meanwhile, DOH is taking steps to capacitate small systems in order to enable them to have

technical, financial and managerial capacity to avail their ability to finance the construction of needed infrastructure that will warrant and provide compliance.

#### **4.0 TYPES OF PROJECTS TO BE FUNDED**

Projects eligible for DWSRF financing includes investments to upgrade or replace infrastructure, address exceeding federal or state health standards, prevent future violations of standards, and provide the public with safe drinking water. With the Bipartisan Act, 2018 implementation in fiscal year 2020, also resiliency projects may be eligible, particularly if these are related to the lead and copper rule. Examples of such projects are:

- green infrastructure projects to address water and energy efficiency improvements or other environmentally innovative activities;
- rehabilitation or development of new drinking water sources to replace contaminated supplies;
- installation or upgrading of facilities to improve the quality of drinking water in order to comply with primary or secondary standards and/or treatment/performance criteria;
- installation or upgrading of storage facilities, including finished water reservoirs to prevent microbiological contamination or to provide adequate delivery pressure;
- installation or replacement of transmission and distribution mains to prevent contamination caused by leaks or breaks;

- projects that promote the consolidation of water supply services, particularly in circumstances where generally the water supply is contaminated, or the system is unable to maintain adequate compliance for financial or managerial reasons;
- the purchase of a portion of another system's capacity, if the purchase is part of a consolidation plan to bring the system(s) into compliance;
- refinancing of any of the above listed project types which are publicly owned and were previously financed subsequent to July 1, 1993; and
- any eligible system or part of a system in conformance with the SDWA.

With the enactment of the AWIA two “possible” eligibilities have emerged:

- a. “to help address a threat to public health from heightened exposure to lead in drinking water or if a Federal or State emergency declaration has been issued due to a threat to public health from heightened exposure to lead in a municipal drinking water supply, (i.e., Complete service line replacement is defined by replacing pipes up to the point of premise plumbing. Service lines consist of a publicly owned section and a privately-owned section. The publicly owned portion of a service line is Clean Water Act §603(d)(IXA) the section connected to the water main and running up to the property line. The privately-owned portion is the section running from the property line to connection to the premise plumbing (generally at an isolation valve). Replacement of the entire service line is DWSRF-eligible); and

- b. to assist areas affected by natural disasters where the definition of community water systems meaning is given in accordance to section 1401(15) of the SDWA (42U.S.C. 300f(15)) an eligible state means a state as defined by section 1401(13)(B) of the SDWA(42U.S.C. 300f(13)(B)) and eligible system means a community water system.”

It is important to know that “replacing or rehabilitating aging treatment, storage or distribution facilities of public water systems are DWSRF-eligible”. As indicated, “these activities were DWSRF-eligible prior to the AWIA amendments and are now spelled out in the SDWA.”

Now with the Consolidated 2022 and the BIL there are other eligible activities such as: the subsidies that may be in the form of forgiveness of principal, **grant**, negative interest loans, or other loan forgiveness and **through the buying, refinancing or restructuring debt**.

The Commonwealth will continue using DWSRF funds for these activities. Also, are spelled out as eligible in the law the consolidation or transfer of ownership a public water system or other actions resulting pursuant to a mandatory assessment may receive a loan to carry out such consolidation, transfer, assessments, or other actions, and actual consolidations.

As we stated in our previous IUP, since fiscal year 2018, as a result of the approval of the Bipartisan Budget Act of 2018, funds may be used for eligible projects whose purpose is to repair damages incurred as a result of the Hurricanes Irma and María, reduce flood damages risk and vulnerability or to enhance resiliency to rapid hydrologic change for a natural disaster at a public drinking water system under Section 1452 of the SDWA. The projects benefited and the amounts assigned from the Bipartisan Budget Act of 2018 were included in the Robust Project Readiness

List of FY 2021. We are hereby referencing the Bipartisan Budget Act of 2018 due to the fact that this 2022 IUP includes a robust list of projects that may be benefited by this Act.

In addition to the base DWSRF allotment for this fiscal year, EPA indicated also the approval of the Bipartisan, November 2021, that assigns to Puerto Rico's DWSRF program a total of \$53.8 million to be used as an investment increase to strengthen the nation's drinking water systems.

The BIL 2021, which includes new provisions applicable to the base DWSRF programs that, unless otherwise directed, are also applicable to projects in whole or part with BIL funds, states that "With supplemental funding to the CWSRF and DWSRF – and creation of dedicated funding within the SRFs to tackle lead and emerging contaminants – states have a great deal of flexibility in program administration." The BIL appropriations includes funding in the amount of \$53,897,000 for FY 2022 to FY 2026, and an approximate amount of \$53 million per year from FY 2023 to FY 2026 for addressing urgent water challenges for all communities especially disadvantaged communities to: (1) replace lead service lines, (2) address emerging contaminants and a (3) general supplemental provision. Regarding DWSRF lead service line replacement projects or associated activity directly connected to the identification, planning, design, and replacement of lead service lines, the BIL requires that the project should replace the entire lead service line, unless a part has been already replaced or is in the process of replacement with another funding source.

Concerning the Green infrastructure, and as mentioned in Section 1.2, the Further Consolidated, 2020, the Consolidated, 2021 and the Consolidated, 2022 states that: "*Provided further*, That for fiscal year 2020, that funds made available under this title to each State for Drinking Water State



Revolving Fund capitalization grants may, at the discretion of each State, be used for projects to address green infrastructure, water or energy efficiency improvements, or other environmentally innovative activities”.

The Commonwealth requested the Puerto Rico Aqueduct and Sewer Authority (PRASA) applications for green projects. In addition, DOH through public announcements has indicated the availability of funds for green infrastructure. **Notwithstanding no applications and/or no eligible project applications for green infrastructure were received.** To this effect the Commonwealth has determined that there are no sufficient eligible green project applications. Thus, no percent of the funds will be appropriated herein from the Revolving Fund for projects to address green infrastructure, water or energy efficiency improvements or other environmentally innovative activities, as the GPR is not mandatory for the DWSRF. Therefore, there will be no projects identified as such in the Project Priority List. Notwithstanding, in the **Attachment V - System Criteria and Ranking Methodology (Summary), H, Green Portion (only for Green Projects)**, provisions are established to rank green projects, if there may emerge any such projects.

During this year, DOH’s intention is to use 4% or \$280,360 corresponding to the administrative set-aside for the administration of the Program. Also, DOH will be using the 2% or \$140,160 for the Technical Assistance set-aside, as well as 10% or \$700,800 for the State Program Management set-aside for this current year. DOH reserves the authority to take from future capitalization grants funds not requested under the set-aside at this time from the 2022 total

annual Federal Capitalization Grants. The anticipated outputs and outcomes of the projects included in this Intended Use Plan are:

<b>Outputs</b>	<b>Outcomes</b>
Two (2) loan agreements *	Improve compliance for systems receiving DWSRF assistance
Increase the cumulative disbursement rate to 72%	Increase the speed at which projects are proceeding towards completion
Increase cumulative projects completion to 72%	Improve compliance with SDWA by increasing number of projects initiating operations
* The loan corresponding to fiscal year capitalization grant 2018 is pending execution by PRIFA. The consolidated loan document corresponding to fiscal years 2019, 2020 and 2021 funds was drafted by DOH and was submitted to PRIFA for execution.	

Following is the Priority list detailing all types of projects to be funded under this Intended Use Plan. Also, the proposed fund disbursement schedules are presented.

**Puerto Rico Department of Health  
Drinking Water State Revolving Fund Program**

**PROJECT READINES LIST FISCAL YEAR 2021  
(ROBUST LIST AS PER ULO'S STRATEGY IMPLEMENTATION)  
SEPTEMBER 2022**

Name of Public Water System/ PWS I.D.	Priority		Project Description	Pop.	Read. date	Estimated Assistance (\$)	Estimated Project Cost	GPR Amt (\$)*	Additional Subsidy** (\$)
	Rank	Points							14% Congress
									Limited 35%
New CT / Distribution Tank FP Corozal (Termination), Corozal - I.D. 5487-a	1	241.17	Termination of New CT / Distribution Tank	6,363	2-21	1,289,120	3,752,764	0	1,289,120
Termination Juncos - Valenciano, Juncos I.D. 5166 (a)	2	240	Improvement to FP 7 MGD expansible to 15 MGD including 2 MGD tank	52,500	4-21	5,299,200	29,064,777	0	1,144,800
Coto Laurel WTP, Ponce I.D. 4524 (a)	3	155	Improv. to Coto Laurel Water Treatment Plant	14,060	10-20	1,000,000	11,617,536	0	981,120 18,880
Ponce Vieja WTP, Ponce I.D. 3824 (a)	4	120	Transfer line from Ponce Nueva FP to 4 MG tank (Elim. of Ponce Vieja FP)	170,075	5-20	3,000,000	29,111,722	0	0
Ponce Nueva WTP, Ponce I.D. 3824 (b)	4	120	Improvements to Ponce Nueva WTP	170,075	1-20	3,000,000	17,606,289	0	Δ
Las Marías, Phase IIB, Las Marías I.D. 3363 (c)	5	115	Improvements to Las Marías Water Distr. System	7,871	6-12	1,000,000	12,500,000	0	0
Culebrinas WTP, Ph II, Aguadilla	6	106.42	Improvements to Culebrinas WTP, Phase II	142,486	9-20	2,645,252	10,453,489	0	0

**Puerto Rico Department of Health  
Drinking Water State Revolving Fund Program**

**PROJECT READINES LIST FISCAL YEAR 2021  
(ROBUST LIST AS PER ULO'S STRATEGY IMPLEMENTATION)  
SEPTEMBER 2022**

Name of Public Water System/ PWS I.D.	Priority		Project Description	Pop.	Read. date	Estimated Assistance (\$)	Estimated Project Cost	GPR Amt (\$)*	Additional Subsidy** (\$)
	Rank	Points							14% Congress
									Limited 35%
I.D. 3293 (b)									
Salinas FP, Salinas I.D. 4885	4	105	Construction of new FP – elimination of wells	29,239	11-21	8,000,000	24,000,000	0	0
Culebrinas WTP, Ph I, Aguadilla I.D. 3293 (a)	7	65.00	Improv. to Raw Water Intake-WTP Culebrinas	142,486	9-20	2,100,000	4,940,723	0	0
Añasco Water Intake, Añasco I.D. 3283 (b)	8	60.08	Improv. to Río Añasco Wtr. Int. - Grit Chambers	88,144	10-20	500,000	10,944,707	0	0
Hatillo Raw Water Intake, Hatillo I.D. 2662 (d)	9	60.04	Improvements-WFP - Raw Water Intake	39,200	10-20	500,000	7,908.968	Δ	0
<b>Cerro Gordo WTP, San Lorenzo I.D. 5106 (a)</b>	<b>12</b>	<b>15.00</b>	<b>Improvements to Cerro Gordo WTP</b>	<b>28,000</b>	<b>3-21</b>	<b>500,000</b>	<b>8,671,999</b>	<b>0</b>	<b>0</b>
Termination of Toa Vaca WTP, Villalba - I.D. 3924	11	10.40	Improvements to new pre-sedimentation tank	40,000	6-20	3,000,000	7,415,984	0	0

**Puerto Rico Department of Health  
Drinking Water State Revolving Fund Program**

**PROJECT READINES LIST FISCAL YEAR 2021  
(ROBUST LIST AS PER ULO'S STRATEGY IMPLEMENTATION)  
SEPTEMBER 2022**

Name of Public Water System/ PWS I.D.	Priority		Project Description	Pop.	Read. date	Estimated Assistance (\$)	Estimated Project Cost	GPR Amt (\$)*	Additional Subsidy** (\$)
	Rank	Points							14% Congress
									Limited 35%
<b>Cerro Gordo Raw Water Intake, San Lorenzo - I.D. 5106 (a)</b>	<b>12</b>	<b>10.28</b>	<b>Improvements to Cerro Gordo Raw Water Intake</b>	<b>28,000</b>	<b>3-21</b>	<b>1,200,000</b>	<b>11,782,139</b>	<b>0</b>	<b>0</b>
					<b>TOTAL</b>	<b>\$31,833,572<sup>v</sup></b>	<b>\$181,870,033</b>	<b>0</b>	<b>\$981,120</b>
									<b>\$2,452,800</b>

\* No projects were identified for the use of the Green Projects Reserve of fiscal year 2022.

\*\* The Consolidated, 2022 established the Additional Disadvantage Comm. Subsidy or Limited 35% Subsidy range as follows: not less than 12% but not be more than 35% to be awarded to the extent that there are sufficient loan applications. A 14% Mandatory Congressional Subsidy or \$981,120 will be awarded with zero percent (0.0%) of interest rate and principal forgiveness to three (3) projects: New CT / Distribution Tank FP Corozal (Termination), Termination Juncos -Valenciano, and Coto Laurel WTP. Regarding the limited 35% subsidy, the maximum 35% or \$2,452,800 was assigned to the Coto Laurel WTP project.

<sup>v</sup> Of this amount, \$12,288,320 is the only amount available for financing for FY 2022. This includes repayment monies in the amount of \$5,000,000. Projects to be financed with the FY 2022 funds are shown **highlighted in orange** and **bold** letter.

<sup>Δ</sup> Projects that previously received assistance under the Green Project Reserve (GPR) or additional subsidization.

**Puerto Rico Department of Health  
Drinking Water State Revolving Fund Program**

**MULTI YEAR LIST - FISCAL YEAR 2022  
September 2022**

Name Public Water System	PWS I.D.	Priority		Project Description	Pop.	Readiness to go date	Estimated Project Cost
		Rank	Points				
Corozal Urbana WTP, Corozal	5487	1	241	New CT / Distribution Tank Corozal	6,363	Feb-21	<b>3,434,376</b>
Aguadilla Urbano WTP Montaña Reservoir Dredging	3293	2	90	Sediment removal from the reservoir ponds of Montaña WTP- Aguadilla	124,044	Jan-2021	\$ 3,000,000
Cidra Urbano Raw Water Intake Rincón Ward, PS (Rincon, Cidra)*	4695 (a)	3	10	Improvements to water intake PS at Rincón Ward	37,262	Jul-14	4,263,252
Río Añasco Raw Water Intake/ Pumping Station (emergency generator)	3283	4	5	Emergency generator facilities to the Rio Añasco Raw Water Pumps Station that supply the Miradero WTP	88,144	Jan-2022	3,000,000
Metro WDS - Bucarabones PS	2591 (f)	TBD	TBD	Diseño y Construcción Estación Bombas Bucarabones, Bayamón	974,309	TBD	479,800.00
Cubuy WTP - PS	2611	TBD	TBD	Construcción de Estación de Bombas en la PF Cubuy	2,096	TBD	810,383.33
Metro WDS - Hollywood Hills	2591 (g)	TBD	TBD	Diseño, Construcción y Mejoras Sistema Distribución AP Hollywood Hills, San Juan	974,309	TBD	1,519,825.50
Arecibo Urbano WDS - Cerro Marquéz	2652	TBD	TBD	Design Build Improvements to "Cerro Marquez" Pump Station & 2.0 MG TWST	81,548	TBD	1,331,632.80
<b>TOTAL</b>							<b>\$14,404,893.63</b>

\* Previously known as Rincón-Cidra.

\*\* The Corozal Urbano WTP project was eliminated from the funding list since PRASA declined from receiving funds from this closed contract so the money can be redistributed in projects that are ready to construct. Therefore, its previous assistance from FY 2019 and its reallocation funds available for projects, was distributed equally among the remaining projects.

<b>LIMITED 35% SUBSIDY TERMS AND DISBURSEMENT SCHEDULE FOR FEDERAL AND STATE FUNDS</b>									
<b>Termination of Corozal WTP, Corozal (New CT / Distribution Tank FP) PWSID 5487-a</b>									
<b>Source of Funds</b>	<b>Cost</b>	<b>Loan Term (years)</b>	<b>Finance Rate</b>	<b>Repay Date</b>	<b>Type of Project (Step)</b>	<b>Design Start</b>	<b>Constr. Start</b>	<b>Constr. Complete</b>	<b>Initiation of Oper.</b>
<b>Limited 35% Subsidy</b>	<b>\$1,289,120</b>	<b>N/A</b>	<b>0%</b>	<b>N/A</b>	<b>2+3</b>	<b>6-21</b>	<b>1-23</b>	<b>1-24</b>	<b>2-24</b>

<b>Termination of Corozal WTP, Corozal (New CT / Distribution Tank FP) Limited 35% Subsidy portion</b>					
<b>Cash Draw Proportion</b>	<b>FY 2023</b>			<b>FY 2024</b>	<b>Total</b>
	<b>2 QTR</b>	<b>3 QTR</b>	<b>4 QTR</b>	<b>1 QTR</b>	
<b>Fed. Share 80.77%</b>	\$ 260,303	\$ 260,303	\$ 260,303	\$ 260,303	<b>\$ 1,041,212</b>
<b>State Share 19.23%</b>	\$ 61,977	\$ 61,977	\$ 61,977	\$ 61,977	<b>\$ 247,908</b>
<b>Total</b>	<b>\$ 322,280</b>	<b>\$ 322,280</b>	<b>\$ 322,280</b>	<b>\$ 322,280</b>	<b>\$ 1,289,120</b>

<b>LOAN TERMS AND DISBURSEMENT SCHEDULE FOR FEDERAL AND STATE FUNDS TERMINATION OF JUNCOS VALENCIANO WTP - PWS ID 5166 (a)</b>									
Source of Funds	Cost	Loan Term (years)	Finance Rate	Repay Date	Type of Project (Step)	Design Start	Constr. Start	Constr. Complete	Initiation of Operation
Subsidy (F/S)	\$1,144,800	N/A	0%	N/A	2+3	9-21	1-23	1-25	2-25
Loan (F/S)	\$2,154,400	30	1.5%	2-26					
Repayment	\$2,000,000	30	1.5%	2-26					
<b>TOTAL</b>	<b>\$5,299,200</b>								

<b>TERMINATION OF JUNCOS VALENCIANO WTP - PWS ID 5166 (a)</b>			
Subsidy Cash Draw Proportion	FY 2023		Total
	2 QTR	3 QTR	
Fed. 80.77%	\$ 403,846	\$ 520,800	\$ 924,646
State 19.23%	\$ 96,154	\$ 124,000	\$ 220,154
<b>Total</b>	<b>\$ 500,000</b>	<b>\$ 644,800</b>	<b>\$ 1,144,800</b>

<b>TERMINATION OF JUNCOS VALENCIANO WTP - PWS ID 5166 (a)</b>								
Loan Cash Draw Proportion	FY 2023		FY 2024				FY 2025	Total
	3 QTR	4 QTR	1 QTR	2 QTR	3 QTR	4 QTR	1 QTR	
Fed. Share 80.77%	\$ 152,277	\$ 673,077	\$ 673,077	\$ 241,661	\$ 0	\$ 0	\$ 0	\$ 1,740,092
State Share 19.23%	\$ 36,256	\$ 160,256	\$ 160,256	\$ 57,540	\$ 0	\$ 0	\$ 0	\$ 414,308
<b>Subtotal</b>	<b>\$ 188,533</b>	<b>\$ 833,333</b>	<b>\$ 833,333</b>	<b>\$ 299,201</b>	<b>\$ 0</b>	<b>\$ 0</b>	<b>\$ 0</b>	<b>\$ 2,154,400</b>
Repayment	\$ 0	\$ 0	\$ 0	\$ 534,132	\$ 488,623	\$ 488,623	\$ 488,622	\$ 2,000,000
<b>Total</b>	<b>\$ 188,533</b>	<b>\$ 833,333</b>	<b>\$ 833,333</b>	<b>\$ 833,333</b>	<b>\$ 488,623</b>	<b>\$ 488,623</b>	<b>\$ 488,622</b>	<b>\$ 4,154,400</b>



<b>CONGRESSIONAL AND LIMITED DISADVANTAGED 35% SUBSIDY TERMS AND DISBURSEMENT SCHEDULE  FOR FEDERAL AND STATE FUNDS  Coto Laurel WTP, Ponce  PWS ID 4524 (a)</b>									
Source of Funds	Cost	Loan Term (years)	Finance Rate	Repay Date	Type of Project (Step)	Design Start	Constr. Start	Constr. Complete	Initiation of Operation
Congressional Subsidy	\$ 981,120	N/A	0%	N/A	2+3	12-13	5-21	7-22	9-22
Disadvantage Subsidy	\$ 18,880								
<b>TOTAL</b>	<b>\$1,000,000</b>								

<b>Coto Laurel WTP, Ponce – PWS ID 4524 (a)</b>					
Cash Draw Proportion	FY2022			FY2023	TOTAL
	1 QTR	3 QTR	4 QTR	1 QTR	
<b>Fed. Share 80.77%</b>	\$ 201,923	\$ 201,923	\$ 201,923	\$ 201,923	\$ 807,692
<b>State Share 19.23%</b>	\$ 48,077	\$ 48,077	\$ 48,077	\$ 48,077	\$ 192,308
<b>TOTAL</b>	<b>\$ 250,000</b>	<b>\$ 250,000</b>	<b>\$ 250,000</b>	<b>\$ 250,000</b>	<b>\$ 1,000,000</b>

<b>LOAN TERMS AND DISBURSEMENT SCHEDULE FOR FEDERAL AND STATE FUNDS</b>									
<b>Ponce Vieja WTP, Ponce</b>									
<b>PWS ID 3824 (a)</b>									
<b>Source of Funds</b>	<b>Cost</b>	<b>Loan Term (years)</b>	<b>Finance Rate</b>	<b>Repay Date</b>	<b>Design Start</b>	<b>Type of Project (Step)</b>	<b>Constr. Start</b>	<b>Constr. Complete</b>	<b>Initiation of Operation</b>
<b>Repayment</b>	<b>\$3,000,000</b>	30	1.5%	6-26	1-21	2+3	5-23	4-25	6-25
<b>TOTAL</b>	<b>\$3,000,000</b>								

<b>LOAN TERMS AND DISBURSEMENT SCHEDULE FOR FEDERAL AND STATE FUNDS</b>										
<b>Ponce Vieja WTP, Ponce</b>										
<b>PWS ID 3824 (a)</b>										
<b>Cash Draw Proportion</b>	<b>FY 2023</b>				<b>FY 2024</b>				<b>FY 2025</b>	<b>TOTAL</b>
	<b>1 QTR</b>	<b>2 QTR</b>	<b>3 QTR</b>	<b>4 QTR</b>	<b>1 QTR</b>	<b>2 QTR</b>	<b>3 QTR</b>	<b>4 QTR</b>	<b>1 QTR</b>	
<b>Repayment</b>	\$ 333,333	\$ 333,333	\$ 333,333	\$ 333,333	\$ 333,333	\$ 333,333	\$ 333,333	\$ 333,333	\$ 333,336	<b>\$ 3,000,000</b>
<b>TOTAL</b>	<b>\$ 333,333</b>	<b>\$ 333,333</b>	<b>\$ 333,333</b>	<b>\$ 333,333</b>	<b>\$ 333,333</b>	<b>\$ 333,333</b>	<b>\$ 333,333</b>	<b>\$ 333,333</b>	<b>\$ 333,336</b>	<b>\$ 3,000,000</b>

<b>LOAN TERMS AND DISBURSEMENT SCHEDULE FOR FEDERAL AND STATE FUNDS</b> <b>CERRO GORDO WTP</b> <b>PWSID 5106 (b)</b>									
Source of Funds	Cost	Loan Term (years)	Finance Rate	Repay Date	Type of Project (Step)	Design Start	Constr. Start	Constr. Complete	Initiation of Operation
Loan	\$500,000	30	1.5%	1-25	2+3	3-21	9-22	12-23	1-24

<b>CERRO GORDO WTP</b> <b>PWSID 5106 (b)</b> <b>LOAN</b>				
Cash Draw Proportion	FY 2023		FY 2024	TOTAL
	3 QTR	4 QTR	1 QTR	
Fed. Share 80.77%	\$ 134,615	\$ 134,615	\$ 134,616	\$ 403,846
State Share 19.23%	\$ 32,051	\$ 32,051	\$ 32,052	\$ 96,154
<b>Total</b>	<b>\$ 166,666</b>	<b>\$ 166,666</b>	<b>\$ 166,668</b>	<b>\$ 500,000</b>

**LOAN TERMS AND DISBURSEMENT SCHEDULE FOR FEDERAL AND STATE FUNDS  
CERRO GORDO RWI  
PWSID 5106 (a)**

Source of Funds	Cost	Loan Term (years)	Finance Rate	Repay Date	Type of Project (Step)	Design Start	Constr. Start	Constr. Complete	Initiation of Operation
<b>LOAN</b>	<b>\$1,200,000</b>	30	1.5%	12-25	2+3	3-21	8-23	11-24	12-24

**CERRO GORDO RAW WATER INTAKE  
PWSID 5106 (a)**

**LOAN**

Cash Draw Proportion	FY 2024				Total
	1 QTR	2 QTR	3 QTR	4 QTR	
<b>Fed. Share 80.77%</b>	\$242,308	\$242,308	\$242,308	\$242,307	<b>\$ 969,231</b>
<b>State Share 19.23%</b>	\$ 57,692	\$ 57,692	\$ 57,692	\$ 57,693	<b>\$ 230,769</b>
<b>Total</b>	<b>\$300,000</b>	<b>\$300,000</b>	<b>\$300,000</b>	<b>\$300,000</b>	<b>\$1,200,000</b>

## **5.0 FINANCIAL PLANNING PROCESS**

Projects can be submitted for listing at any time. A new IUP will be issued at least once a year and may be amended during the period that the IUP is in effect, providing that sufficient funds are available. Projects submitted for financing will be screened for eligibility, ranked, scored and listed. All eligible projects for which pre-application forms have been submitted and reviewed will be included on the Robust Priority List. Projects ready for financing will be listed on the project Readiness List. Direct loans will be originated throughout the year. Concerning the grant payments schedule, it will be discussed/agreed with EPA.

Section 1452 (e) and (g)(2) provides for the establishment of program administrative fees which may be assess on a recipient of a loan and these must be deposited into the Fund or into an account outside the Fund. DOH may determine to establish this fee. DOH may be requesting PRIFA to establish it and may be requesting to the Puerto Rico Finance Advisory Authority and Fiscal Agency (PRFAAFA) to assess PRASA's financial capacity to pay it. In addition, should DOH determine its establishment, this Department will be requesting that such fee shall be deposited into an account outside the Fund for its use only for the purposes for which the capitalization grant is awarded under Section 1452 (e) of the SDWA or for state match. Thus, should it be DOH's determination to such establishment, then, in addition to the payments required on the Financial Agreement, PRASA shall pay an administration fee payable at the closing date of the Agreement. For this current fiscal year funds (FY 2022) this fee is one-half (0.5%) percent of the loan amount for a total of \$44,272, which will be deposited by the PRIFA, outside the Fund, in a separate Interest Bearing Account. It is the intention of this Department to use these funds together with

the interests earned, within other purposes, for state match. The establishment of this fee is subject to PRIFA and PRFAFAA financial evaluation and determination.

## **6.0 TYPES OF ASSISTANCE AND FINANCIAL TERMS**

Up to October 2018, DOH certified that only the types of assistance authorized under the SDWA as amended, will be awarded from the DWSRF. The terms and conditions of the loans to be awarded are as authorized by the SDWA and its amendments. As of October 21, 2018, the America's Water Infrastructure Act (AWIA) §2015(d) - Types of Assistance, incorporated changes regarding financial terms to the SDWA §1452(f)(1). These changes states as follows: "Except as otherwise limited by State law, the amounts deposited into a State loan fund under this section may be used only:

- (1) to make loans, on the condition that
  - (A) the interest rate for each loan is less than or equal to the market interest rate, including an interest free loan;
  - (B) principal and interest payments on each loan will commence not later than *18 months* after completion of the project for which the loan was made;
  - (C) *each loan will be fully amortized* not later than 30 years after the completion of the project, except that in the case of a disadvantaged community (as defined in subsection (d)(3)) a State may provide an extended term for a loan, if the extended term
    - (i) terminates not later than the date that is *40* years after the date of project completion; and

- (ii) does not exceed the expected design life of the project;
  - (D) the recipient of each loan will establish a dedicated source of revenue (or, in the case of a privately owned system, demonstrate that there is adequate security) for the repayment of the loan; and
  - (E) the State loan fund will be credited with all payments of principal and interest on each loan;
- (2) to buy or refinance the debt obligation of a municipality or an inter-municipal or interstate agency within the State at an interest rate that is less than or equal to the market interest rate in any case in which a debt obligation is incurred after July 1, 1993;
  - (3) to guarantee, or purchase insurance for, a local obligation (all of the proceeds of which finance a project eligible for assistance under this section) if the guarantee or purchase would improve credit market access or reduce the interest rate applicable to the obligation;
  - (4) as a source of revenue or security for the payment of principal and interest on revenue or general obligation bonds issued by the State if the proceeds of the sale of the bonds will be deposited into the State loan fund; and
  - (5) to earn interest on the amounts deposited into the State loan fund.”

In summary, this section “extends the maximum-authorized DWSRF loan amortization period up to 30 years for any DWSRF-eligible recipient or up to 40 years for state-defined disadvantaged communities, or design life, whichever is shorter. Before AWIA, the maximum amortization period was 20 or 30 years, respectively. This section also extends the authorized loan repayment

initiation up to 18 months after project completion, an increase from the AWIA pre-authorization of 12 months.” It is important to point out that notwithstanding this term, when evaluating each project case, DOH will determine the financing term according to the design life/useful life of the infrastructure of the project and/or an average of the design/useful life of the project’s components.

It is important to note that due to the federal cut-off that prevailed on project’s infrastructure financing as well as to PRASA’s debt restructure, there were several loans pending execution. After the debt restructure agreement was completed and signed; and the cut-off was eliminated, there was a possibility that due to these facts, in addition to the different appropriation acts established during these three years the terms and conditions of the loans to be awarded will change. Two additional facts that may change them are the Forbearances that were issued as part of the restructure process and the amendments to the laws that have changed the loan terms to 30 years or useful life of the project’s components and the changes also in loan terms when using the Hardship Loans/Affordability Criteria for Disadvantaged Systems. Due to the above-mentioned thus, it cannot be disregarded that financial terms may vary for the loans that will be executed and that are impacted by the different year’s applicable laws. Therefore, for these years there might be a change in the terms and conditions of the Financial Agreements that will be executed, and these also may consider grant condition established by EPA.

Capitalization Grants will be used to provide the following types of financial assistance:



## 6.1 Direct Loans

Based on an economic and financial analysis conducted on behalf of DOH by Puerto Rico Infrastructure Financing Authority (PRIFA), in coordination with PRFAFAA, loan agreements will be executed with PRASA or any other qualified borrower at a negotiated interest rate. Up to date, the loan interest rate has been 2% and the financing term has been 20 years. However, as stated above, the AWIA provides for a change in the financing term to 30 years in the case of the disadvantage communities, to 40 years and/or design life of the project's components. Because PRASA requested the restructure of its DWSRF debt and an agreement was reached, this percent may change as well as the financing term of any debt restructure agreement that is signed. These may vary as a result of a financial analysis to be undertaken. Also, the use of the Hardship Loans/Affordability Criteria for Disadvantaged Systems may be applicable. For years, in compliance with the law, DOH has executed the binding commitment (Financial Agreement)<sup>1</sup> on/or before the deadline established by the law, which is one year after the grant award. It is necessary to clarify that, due to the debt restructure process, loans pending execution were not processed because EPA did not authorize their execution during the cut-off. After PRASA's debt restructure agreement was reached in September 2019, this Department initiated the revision of existing loans. Also, DOH drafted two new loans tempering them to the restructure agreement and the new terms and conditions as

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<sup>1</sup> Reference is made to a Financial Agreement when the agreement includes a loan portion and a subsidized portion.

well as those established in the grants whose loans were not executed due to the cut-off. As previously stated, the final loan documents were submitted to PRIFA for their execution. Of these two, one was executed for the funds corresponding to fiscal years 2015, 2016 and 2017. Also, DOH PRIFA executed the second loan corresponding to the FY 2018 funds. Regarding the loans for the FY 2019 through 2021 funds, DOH prepared a combined loan document including these three years' funds. The final loan document was submitted to PRIFA for its execution. We must point out that due to public health considerations undertaken to approach the different environmental situations encountered since the beginning of 2020 including the persisting and prevailing earthquakes and the coronavirus pandemic, the completion of the drafting of the new loans including their execution was delayed.

## **6.2 Refinancing**

In accordance with Section 1452 (f)(2) of the SDWA, local debt obligations may be purchased or refinanced at or below market rates, where the initial debt was incurred and construction initiated after July 1, 1993.

## **6.3 Hardship Loans/Affordability Criteria for Disadvantaged Systems**

The Commonwealth may determine if hardship loans will be made available to borrowers and the rate at which (below the regular reduced rate) these will be executed. Affordability criteria (*refer to section 8*) will help to determine the hardship loan rate, which may be as low as zero percent. Currently, a hardship loan determination may be applied. In the debt restructure process the hardship loan determination was not used.

Nevertheless, due to the change resulting from the AWIA, a small disadvantaged community loan may be established in conformity with the requirements and applicable federal regulations as long as or to the extent that there are sufficient applications for loans to communities described. Terms governing principal amortization may be the same as those applicable to direct loans, where the interest rate may be reduced. Any interest payable on hardship loans will be set or determined by the DOH in coordination with the Puerto Rico Infrastructure Financing Authority (PRIFA) and PRFAFAA and may be between two-thirds of the market rate, as determined by the most recent DWSRF financing, and zero percent (0%). The actual rate may be determined based on the affordability criteria and applicable laws. For certain borrowers that qualify for a zero percent hardship loan, there may be a service charge. As stated before, this will be set or determined by the DOH in coordination with PRIFA and PRFAFAA.

#### **6.4 Additional Subsidization**

During FY 2018, through the Bipartisan Budget Act of 2018 a disaster declaration related to the Irma and María hurricanes was made where in regard of amounts previously appropriated for capitalization grants “the state or territory shall utilize the full amount of such funds, excluding existing loans, to provide additional subsidization to eligible recipients in the form of forgiveness of principal, negative interest loans or grants or any combination of these: *Provided further*, That such funds may be used for eligible projects whose purpose is to repair damage incurred as a result of Hurricanes Irma and Maria, reduce flood damage risk and vulnerability or to enhance resiliency to rapid

hydrologic change or a natural disaster at a public drinking water system under section 1452 of the Safe Drinking Water Act: *Provided further*, That any project involving the repair or replacement of a lead service line shall replace the entire lead service line, not just a portion.”

For fiscal year 2019, the AWIA §2020 provisions for additional subsidization in the assistance for areas affected by natural disasters after January 1, 2017 were addressed. This subsection states that, in general, “an eligible State may use funds provided pursuant to subsection €(1) to provide assistance to an eligible system within the eligible State/or the purpose of restoring or increasing compliance with national primary drinking water regulations in an underserved area. Also, it also indicates that an eligible system shall be eligible to receive loans with additional subsidization (including forgiveness of principal, negative-interest loans, or grants (or any combination thereof)) for the purpose described in paragraph (1) of the subsection.

Up to fiscal year 2015, the Consolidated and Further Continuing Appropriation Act of 2015 (P.L.113-235) and previous Regulations required the States to provide not less than 20% but not more than 30 percent in additional subsidies, to recipients in the form of forgiveness of principal, negative interest loans, or grants (or any combination of these) to any “eligible recipients” of DWSRF assistance. From fiscal years 2016 to 2019, the provision of 20% was mandatory.

For this fiscal year 2022, as stated previously, fourteen percent (14%) of the funds made available under this title to each State for Drinking Water State Revolving Fund

capitalization grants shall be used by the State to provide additional subsidy to eligible recipients in the form of forgiveness of principal, negative interest loans, or grants (or any combination of these), and shall be so used by the State only where such funds are provided as initial financing for an eligible recipient or to buy, refinance, or restructure the debt obligations of eligible recipients only where such debt was incurred on or after the date of enactment of this Act, or where such debt was incurred prior to the date of enactment of this Act if the State, with concurrence from the Administrator, determines that such funds could be used to help address a threat to public health from heightened exposure to lead in drinking water or if a Federal or State emergency declaration has been issued due to a threat to public health from heightened exposure to lead in a municipal drinking water supply before the date of enactment of this Act: *Provided further*, That in a State in which such an emergency declaration has been issued, the State may use more than 20 percent of the funds made available under this title to the State for Drinking Water State Revolving Fund capitalization grants to provide additional subsidy to eligible recipients.

Considering the provisions of the Consolidated 2022 and the BIL 2021, DOH has determined to provide in this Intended Use Plan an additional subsidy of fourteen percent (14%). Therefore, in targeting additional subsidies, as established in the Continuing Appropriations and the AWIA, Puerto Rico will provide 14% (\$981,120) of the FY 2022 capitalization grant to provide additional subsidization (mandatory congressional 14% subsidy) with zero percent (0.0%) of interest rate and principal forgiveness).

The recipient of the grant must identify projects within at least one of the following qualifying categories in order to receive points under the additional mandatory congressional 14% subsidy criterion:

- a) projects that will eliminate or consolidate small system – 3 points
- b) projects that support sustainable systems and help build or maintain the technical, financial and managerial capacity of the recipient – 2 points
- c) systems related to communities or directly serving a community that could not otherwise afford the DWSRF loan including disadvantaged communities as defined by the Commonwealth – 1 point

When applicable, if the Act provides for a range in the percent to be established, and if there are more projects that could be identified under one or more of the above-mentioned categories, for each additional remaining category the percent will increase by 5%.

The mandatory congressional 14% subsidy will be distributed until the subsidized amount is completely used and among the eligible projects (See **Appendix II**) as follows:

- to project(s) by priority order and the qualifying category and until the subsidized amount is completely used.

Please note that, notwithstanding the distributed amount by the above priorities the subsidized amount could be re-awarded due to unforeseen circumstances (i.e.

projects delayed, among others). The re-award may be in any of the following manners and until the subsidized amount is used:

- to project(s) by priority order and the qualifying category,
- directly to the project(s) identified within the qualifying categories,
- the project(s) first received and ready to go,
- the most expensive project(s).

In fact, for this fiscal year Puerto Rico will be awarding or providing \$981,120 or 14% of its Capitalization Grant as additional subsidy (mandatory congressional), which will be in the form of forgiveness of principal, negative interest loans, or grants (or any combination of these).

#### **6.5 Leveraging**

The Commonwealth of Puerto Rico may consider leveraging in order to increase the amount of funds available to finance infrastructure projects. If leveraging is undertaken, it will be indicated in the IUP and the applicable grant application and will be structured in accordance with the requirement of the Act and the DWSRF final guidelines.

#### **6.6 Repayments**

It is important to make reference once more, to the Office of Inspector General report of the US EPA dated April 26, 2017, which states as of November 7, 2016, that the GDB's records showed a combined revolving funds balance (consisting of state matches, repayments and interest) of over \$194.5 million, which, up to December 2018 has been impaired by the lack of bank assets and were, not available for use. We must clarify that

of the amount of \$194.5 million approximately \$53 million corresponded to the DWSRF Program and included not only repayment, but also matching funds and interest. However, as of December 21, 2018, these funds were reinstated into the DWSRF accounts. We must indicate that EPA's notification in order to reinstate the disbursements halted due to the cut-off was provided in September 2019. Up to fiscal year 2016 these funds were available to the DWSRF for providing assistance in addition to the annual capitalization grant. It is important to note that for three years, due to the notice of non-compliance, and to the financial crisis that the government was undergoing, these funds were not available for disbursement for drinking water infrastructure. During fiscal year 2018, these repayment monies and interest earned on were restituted. The government of Puerto Rico included in its fiscal plan submitted to the PROMESA Board the recovery of the above-mentioned funds in order to restore these funds to the DWSRF and guarantee the perpetuity of the Program. As mentioned above, these funds were restored to the DWSRF account as of December 21, 2018.

#### **6.7 Other Authorized Activities and Clean, Safe, Reliable Water Infrastructure**

Under the AWIA §2015(f) and AWIA §2002, as amended, the law authorizes certain activities that were eligible when the Program was created. Now the SDWA §1452(k) states:

“(k) Other authorized activities

(1) In general

Notwithstanding subsection (a)(2), a State may take each of the following actions:



(A) Provide assistance, only in the form of a loan, to one or more of the following:

(i) Any public water system described in subsection (a)(2) to acquire land or a conservation easement from a willing seller or grantor if the purpose of the acquisition is to protect the source water of the system from contamination and to ensure compliance with national primary drinking water regulations.

(ii) Any community water system to implement local, voluntary source water protection measures to protect source water in areas delineated pursuant to section 300j-13 of this title, in order to facilitate compliance with national primary drinking water regulations applicable to the system under section 300g-1 of this title or otherwise significantly further the health protection objectives of this subchapter. Funds authorized under this clause may be used to fund only voluntary, incentive-based mechanisms.

(iii) Any community water system to provide funding in accordance with section 300j-14(a)(I)(B)(i) of this title.

(B) Provide assistance, including technical and financial assistance, to any public water system as part of a capacity development strategy developed and implemented in accordance with section 300g-9(c) of this title.

(C) Make expenditures from the capitalization grant of the State to delineate, assess, *and update assessments for* source water protection areas in accordance with section 300j-13 of this title, except that funds set aside for such expenditure shall be obligated within 4 fiscal years.

(D) Make expenditures from the fund for the establishment and implementation of wellhead protection programs under section 300h-7 of this title *and for the implementation of efforts (other than actions authorized under subparagraph (A)) to protect source water in areas delineated pursuant to section 300j-13 of this title.*

(2) Limitation

For each fiscal year, the total amount of assistance provided, and expenditures made by a State under this subsection may not exceed 15 percent of the amount of the capitalization grant received by the State for that year and may not exceed 10 percent of that amount for any one of the following activities:

(A) To acquire land or conservation easements pursuant to paragraph (1)(A)(i).

(B) To provide funding to implement voluntary, incentive-based source water quality protection measures pursuant to clauses (ii) and (iii) of paragraph (1)(A).

(C) To provide assistance through a capacity development strategy pursuant to paragraph (1)(B).

(D) To make expenditures to delineate or assess source water protection areas pursuant to paragraph (1)(C).

(E) To make expenditures to establish and implement wellhead protection programs, *and to implement efforts to protect source water*, pursuant to paragraph (1)(D).”

According to EPA, “This section allows states to fund delineation and assessment of source water protection areas, and to update existing source water protection assessments, using the 15 percent Local Assistance and Other State Programs set-aside. That authorization had previously expired with the 1997 capitalization grant funding. Further, states may use this set-aside to fund activities to implement source water protection more generally.”

## **7.0 SET-ASIDE ACTIVITIES**

Section 1452 of the SDWA authorizes states to use a portion (set-asides) of the federal Capitalization Grant to support various drinking water programs. Section 1452 allows as much as 31% of a State's Federal Capitalization Grant to be used for administrative assistance, technical assistance, public water supply supervision and special activities. As stated previously, 4% for the administrative set aside will be used for fiscal year 2022 or \$280,320. The 2% or \$140,160 corresponding to the technical set-aside will also be established during FY 2022. In addition, the maximum of 10% or \$700,800 available from the State Program Management set aside will be established for this current fiscal year. Thus, this Department reserves the authority to take from future capitalization grants the funds not requested at this

time. Also, the Commonwealth intends to maximize the use of capitalization grant monies for water supply projects as much as possible. Therefore, only those funds considered essential for the DWSRF, and the Public Water Supply Supervision program support have been allocated to set-aside activities. Unused set-aside funds can be re-budgeted to fund eligible activities under set-asides. Nevertheless, any unused set-aside monies can also be transferred to the project fund after receiving an approved amendment to the capitalization grant. It is important to note that DOH will continue undertaking a series of activities and project that were previously funded with monies set apart under the set-asides that have been carried over from previous capitalization grants and which use is based, within others, on priorities established in the Technical Assistance Support (TAS) (See **Attachment I**). The Set-asides Work Plan provides all the activities that DOH will be undertaking in order to expedite the use of funds not only from the current fiscal year but any other un-liquidated balances.

We cannot disregard the serious impact that during previous years the financial situation, the federal cut-off, the environmental disasters of the earthquakes, the drought, and the coronavirus pandemic and the potential cyclones with imminent loss of electric power and floods have caused in the on-going activities and how they have impaired the continuity of others to the extent of halting them. On the other hand, we must mention that we do not necessarily need an environmental disaster to have disruption of activities. Due to the fragile and aged infrastructure we have continuous loss of electric power and internet even with the most insignificant atmosphere disturbances which seriously continue affecting day to day activities. It must be pointed out that the Work Plan contains and details certain activities which

are on-going and will be undertaken annually as part of the follow-up to previously funded activities. Other activities, such as pilot projects, have a specific time frame for their completion. It is important to know that since fiscal year 2016 the intention of DOH has been the extension of prior contracts but due to the critical financial situation, the federal cut-off and moreover, the impact of the two hurricanes, all these activities were halted and/or delayed, as previously stated. The environmental disasters, including the earthquakes, and the coronavirus pandemic that continue affecting our people's health are factors that have exacerbated the situation. We have to point out that a new hurricane, Fiona, just affected the island in September 17, 2022 and a total set-back of the progress attained is once again lost.

At the time and as we have mentioned, the objective was to have under contract activities in three (3) phases of two (2) years each for a total of six (6) years. Because the time lapse has been too long, this alternative was not considered. DOH was not able to contract a private entity, but in turn, DOH was able to hire personnel as professional services contract effective October 2020, and continued directing efforts towards undertaking the activities designed to trying to catch up in time the delays that may continue happening as a result of the pandemic. The circuit riders' activities started in October 2020. As we detailed in the Set-Aside Work Plan there is a need to move and use the money and we look forward to achieve this in three phases of money use. The intended use of funds and expected accomplishments for each set-aside are described below and they are currently ongoing. In summary, the submitted annual Set-Aside Work Plan for fiscal year 2022-23 includes additional information on estimated project time frames for the completion of the activities programmed. It must be indicated that EPA issued

on April 2021 an amendment requested for the Capitalization Grant corresponding to FY 2020 in order to include the State Program Management set-aside established by DOH. Also, it is important to point out that up to FY 2022 DOH was able to complete the activities detailed on previous years' Work Plans, to the extent possible and notwithstanding the difficulties encountered focusing on the compliance the legal authority of DOH. Nonetheless, if there are activities that still require more than one year for its completion, these are detailed on the current fiscal year 2022-23 Work Plan. Moreover, the Performance Status Report submitted annually accounts for those activities completed or achieved and presents reasons for delays, if any, in their execution, which has been limited mainly by the reasons previously detailed and stated.

#### **7.1 Administrative Assistance**

The SDWA authorizes states to take up to 4% of the total annual Federal Capitalization Grant (as provided in Section 130 of the SDWA amendments of 1996) to support the cost of administering the DWSRF program. The Commonwealth of Puerto Rico will be using the 4% or \$280,320 of the FY 2022 Capitalization Grant corresponding to the Administrative Set-aside. Administrative tasks are undertaken, mainly on an annual basis, and include, but are not limited to:

- implementing the Operating Agreement between DOH and the United States Environmental Protection Agency (EPA);
- developing and finalizing a Capitalization Grant application package to secure federal funds;

- performing project technical reviews; ranking project proposals in priority order;
- preparing an IUP which identifies available funding resources and expenditures and establishes a readiness fundable priority list (current year) and multi-year project priority list;
- implementing a State Environmental Review Process (SERP)<sup>2</sup> as required; reviewing and approving engineering reports, construction plans and specifications; conducting project inspections;
- evaluating and determining project affordability (hardship); conducting public participation efforts and hearings;
- tracking systems; directing the investment of DWSRF funds; preparing project financing and loan agreements (including cost summaries and project financing schedules);
- preparing necessary financial documents; originating loans; processing disbursement request and conducting associated document review; collecting and managing loan repayments;

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<sup>2</sup> Delegated by Law of the Commonwealth, the Office of Permits Management (OGPe) will be undertaking certain activities that were undertaken by the Environmental Quality Board. We have to point out that The Commonwealth of Puerto Rico through “Puerto Rico Permit Process Reform Act, Act No. 161 of December 01, 2009, as amended,” the process included in REPED (“Environmental Quality Board Regulation for the Presentation, Evaluation and Transmittal Process of Environmental Documents” (REPED)) states that the Permit Management Office (PMO) will undertake the assessment of the environmental compliance process. This regulation as approved provides an assessment process pursuant to Environmental Policy Act (NEPA), performing substantially similar to Puerto Rico Regulation for Environmental Impact Statements. The process was design in accordance with the Environmental Public Policy Act of Puerto Rico, Act No. 416 of September 22, 2004, as amended.

- establishing and collecting loan fees; ensuring that program and fiscal audits are conducted; preparing necessary cash draw requests and preparing technical and financial reports to meet federal and state mandates;
- preparing reports for the compliance with program requirements and grant conditions; and
- initiate the implementation of the asset management promotion in community drinking water systems and assist them in their development of the asset management plan.

We have to point out that a new section under the SDWA has been created by AWIA §2015(g): Best Practices for Administration of State Revolving Loan Funds. This new section under the SRF is now §1452(s), which states:

*“(s) Best practices for State loan fund administration*

*The Administrator shall-*

*(1) collect information from States on administration of State loan funds established pursuant to subsection (a)(1), including-*

*(A) efforts to streamline the process for applying for assistance through such State loan funds;*

*(B) programs in place to assist with the completion of applications for assistance through such State loan funds;*



*(C) incentives provided to public water systems that partner with small public water systems to assist with the application process for assistance through such State loan funds;*

*(D) practices to ensure that amounts in such State loan funds are used to provide loans, loan guarantees, or other authorized assistance in a timely fashion;*

*(E) practices that support effective management of such State loan funds;*

*(F) practices and tools to enhance financial management of such State loan funds; and*

*(G) key financial measures for use in evaluating State loan fund operations, including-*

*(i) measures of lending capacity, such as current assets and current liabilities or undisbursed loan assistance liability; and*

*(ii) measures of growth or sustainability, such as return on net interest;*

*(2) not later than 3 years after October 23, 2018, disseminate to the States best practices for administration of such State loan funds, based on the information collected pursuant to this subsection; and*

*(3) periodically update such best practices, as appropriate.”*

Under this section EPA is directed to conduct a best practices evaluation by October 23, 2021.

## **7.2 Technical Assistance**

Section 1452 (g)(2)(D) of the SDWA authorizes states to take up to 2% of the total annual Capitalization Grant to provide technical assistance to small water systems (those with population of 10,000 or less). As stated previously, the Commonwealth of Puerto Rico will be banking the 2% or \$140,160 of the FY 2022 Capitalization Grant corresponding to the technical set-aside. DOH reserves the authority to take from future capitalization grants funds not requested at this time from the FY 2022 capitalization grant in the amount of \$140,160 or (2%) corresponding to the technical assistance set-aside. The technical assistance may include assistance to potential loan recipients complying with national and state drinking water regulations. It is essential to continue expanding the technical assistance provided and explore new mechanisms and programs to address the needs of small systems. With the collaboration of public and private entities these activities may be undertaken to provide direct assistance to selected or specific communities. DOH will also use the resources under the technical assistance set aside to assist drinking water systems in their process of developing their asset management plan.

As stated, the Technical Assistance Support (TAS) established by DOH as part of Puerto Rico's Drinking Water Program will provide, in an organized manner, the assistance that drinking water systems need in concert with other Commonwealth assistance initiatives. The purpose of the TAS is to use the DWSRF and set asides limited resources effectively and efficiently. Though the TAS has the following priorities:

- Capacity Development Program,
- Area–Wide Optimization Program,
- Circuit Rider Program.

During this year, DOH will continue directing its exertions towards activities on Capacity Development and Circuit Rider in an effort to cope and to certain extent harmonize DOH’s TAS with the Sustainability Policy (the Policy). **Also**, DOH understands that it is necessary to continue the implementation of the TAS and in this process evaluate/revise it or undertake minor changes that will take into consideration the Policy to the extent of the availability of funds.

Currently, throughout 2022 this Department is revising its capacity strategy towards including in it the promotion of asset management in the systems using the TAS. To this effect, the strategy will include asset management promotion and assistance through the use of the TAS mechanism.

A big set-back has been the Covid pandemic and as recently as September 17 the Fiona hurricane. There is no electric power, internet, water throughout the island.

We will use also the small systems CPE or the “Adapted CPE” to assist systems with the asset management.

The validation of a small system CPE<sup>3</sup> was completed few years ago. On a yearly basis new systems are assisted by implementing the CPE while follow up is provided to systems where the CPE was completed.

Concerning the Circuit Riders Program, the programming of the implementation in other systems is expected in order to continue expanding it. Although during fiscal year 2018 DOH was able to revise a new proposal for continuing the expansion of the two concepts of Capacity and Circuit Rider to other systems, where these concepts are mingled in order to provide technical assistance, executing a Circuit Rider contract on this regard whether in FY 2018 and 2019 it was limited, once more, to the availability and flow of funds and the approval of the Government/PROMESA. However, as stated previously, by the end of FY 2020 DOH was able to hire personnel under contract to undertake the Circuit Riders activities. DOH will be using also this concept during the promotion and assistance to systems in their implementation of asset management.

It is the Commonwealth's intention to increase the number of available sources or providers of technical assistance to small systems in order to outreach a greater number of systems, increase the number of systems that are in the process of attaining compliance, increase the number of systems/communities that are benefited through the targeting of subsidies; improve systems compliance and operation, increase knowledge

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<sup>3</sup> DOH has developed an adapted CPE and is used for evaluating small systems.

of the need to comply with the SDWA, improve and maintain the quality of water served, and thus, ultimately, protect the public health.

We must repeatedly indicate that notwithstanding the above mention intentions, the global financial situation and general financial crisis of the government of Puerto Rico; the requirements established by PROMESA; together with the environmental disasters of the previous hurricanes Irma and María , with once more the lack of electricity, water and internet, earthquakes, and the pandemic combined with the earthquakes, and now as recent as of September 17, 2022 Hurricane Fiona has consistently limited and affected the development of activities related to the technical assistance provided to the systems and their possibility of compliance. Also as mentioned previously the fragile and aged electric power infrastructure is constantly limiting the availability of this resource and those dependent on it such as the internet and the water treatment and distribution.

Therefore, these priorities and its implementation may be affected, and the activities associated, which are described in detail in the Work Plan, may also be limited, delayed or halted in time and number. Currently, Puerto Rico continues under the threat of the earthquakes, throughout the island although more marked particularly in the western region, and the pandemic, although diminished by the administration of the vaccines, still limits day-to-day activities particularly due to the new variants affecting worldwide and thus Puerto Rico such as the delta, and actually the omicron. Another major threat is the hurricane season and as for now we just received the hit of hurricane Fiona which just left in total devastation the island and the people's possibility of recovery

is once more affected more that seriously. As we mentioned earlier, there are certain activities which are on-going and will be undertaken annually as part of the follow-up to previously funded activities. Other activities have a specific time frame for their completion, while those associated to a contract or a pilot project may vary depending on the proposal and availability of personnel.

### **7.3 Small Water Systems (Non-PRASA)**

DOH has an existing small water systems program (Non-PRASA). The DOH Non-PRASA Program provides technical assistance and guidance to communities by considering project alternatives, determining project priorities, and advising communities on selecting the simplest project, using volunteers and avoiding duplication of services.

The activities to be undertaken include:

- acquiring, training and orienting new program staff;
- holding community meetings to explain the Non-PRASA program and its advantages;
- upgrading the record keeping system to facilitate periodic status reports;
- train and certify if necessary existing staff as certified operators
- assignment of existing staff to provide training and orientation to systems owners or operators;
- assist systems' owners in order to facilitate the certification of the operator; and

- now with the revision of the capacity strategy for the inclusion and promotion of asset management in the drinking water systems, this Department will undertake said revision for the inclusion of said promotion in the systems for the development and use of asset management plan and will provide assistance to them in their process of undertaking the preparation and the implementation of their asset management plan.

This highly successful Program needs to be expanded to service more systems and to provide uniform coverage within the Commonwealth in their process of attaining compliance. For this reason, other private or Commonwealth agencies may be used to provide technical assistance for aspects of management and coordination of small community drinking water projects, in accordance with the existing Non-PRASA Program.

It is necessary to continue expanding and outreaching the number of communities that are being evaluated and are receiving technical assistance for financial and managerial aspects of capacity development, in order to improve the quality of the water served by the Non-PRASA systems and, thus, attain compliance. Now with the new tool of asset management available to the systems DOH will engage in the promotion in the systems as an enhancement to the assistance that is provided to them.

As it has been stated, since FFY 1998, the goal of the technical assistance initiative is to provide assistance to small public water systems to enable such systems to achieve and maintain compliance with applicable national and state drinking water regulations.

The Commonwealth has used this set-aside to provide technical assistance, among other things, by performing Comprehensive Performance Evaluations (CPE) <sup>4</sup> and by implementing the Small Systems Strategy, in order to provide the drinking water systems with different assistance mechanism to bring into compliance. This assistance will be directed towards addressing the technical, financial, and managerial issues necessary to attain compliance. DOH will continue using it as a tool in the Area Wide Optimization Program. The optimization of systems is also considered in their evaluation. Moreover, DOH will expand the outreach to other systems and will continue implementing the use of the small systems CPE methodology previously validated. DOH has determine to use the adapted CPE while promoting the use of asset management plan because it provides essential data useful for the preparation of asset management plan. Particularly, it will be used for providing technical assistance to the systems that are in the process of establishing their asset management plan. As we have indicated, this Department will be providing assistance while promoting the use of asset management in the community drinking water systems, particularly on those small drinking water systems. These small systems are the initial priority in the promotion process. Nevertheless, we cannot disregard the fact that currently we are under resiliency actions as the result of hurricane Fiona. More than ten days have passed and still most of the island is lacking the essential utilities such as electricity, drinking water, internet and other utilities used as part of the

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<sup>4</sup> Including the adapted CPE for small systems.



daily life. We have also a serious problem with the availability of gasoline, diesel, and other gas products that are used by the population daily. Currently, generators are used not only by the general population but also businesses due to the lack of electric power and the inability of restoring the electric power system. The promotion of asset management will be a very difficult process because the systems have not recovered from the hit of the hurricane Fiona. Their recovery is the first priority and possibly asset management implementation will be in a second or third position. Technical assistance in the revision of CPEs will also be undertaken during this year to the extent possible due to the current circumstances. Thus, it is the intention of DOH to enter into partnership with a private entity in order to enhance the CPE by performing Sanitary Surveys where both approaches will be combined.

During FY 2015 this Department entered into a new contract to further the assistance to additional 48 new drinking water systems. A total setback of activities occurred when the cutoff was decreed. DOH will continue this oversight to the systems that were subject to sanitary survey and were evaluated taking into account within others the optimization of the system and will continue providing follow-up and guidance in the implementation of their compliance action plans in order to provide the tools for optimizing them and re-enforce the maintenance and/or attainment of capacity. DOH in an effort to provide technical assistance and determine specific factors that may cause or will end in the potential non-compliance of a system, will direct its exertions to enter into contracts with private entities that will be undertaking sanitary surveys. DOH initiated

this process few years ago by coordinating with the PWSS program and providing support to them while assistance is also given to the systems by using the adapted CPE. This process and assistance have been affected and/or delayed by several factors: the general financial situation of the Island and its public corporations, the federal cut-off, the two hurricanes that hit the Island, and the recurrent earthquakes and the coronavirus pandemic or the latter's combined/simultaneous occurrence and now without disregarding the fragile electric power infrastructure. Now with the hit of hurricane Fiona we are as in day zero mainly because the hit of the hurricane Fiona brought unprecedented rainfall with great damage to the drinking water systems and their intake and particularly the infrastructure that provides electricity, which was one that had not recovered from hurricanes Irma and María. Notwithstanding this situation that have delayed the process this Department is determined to continue providing the support and assistance so much needed and will continue coordinating with the private sector the execution of contracts and assistance for this purpose and also for asset management in the systems.

Concerning the PRASA systems in terms of the CPE's, through a bilateral agreement between DOH and PRASA, these were to be conducted by in-house (state) staff or approved third party experts who have received certification by PRDOH. During FY 2022, DOH, as necessary and requested, will continue evaluating the profiles of experts (upon request and to the extent necessary) and will certify them for undertaking CPE's, in accordance with the AO/bilateral agreement.

The primary goal of the CPE is to review and evaluate the capabilities of an existing treatment facility to determine if it is meeting current standards and performance goals. In addition, the CPEs will assess whether the optimization of facilities will assure compliance with current and future standards and regulations.

Training of field staff responsible for follow-up, making equipment available when needed, and holding at least one workshop per year on troubleshooting techniques will be necessary. PRASA's systems are more complex but DOH will also engage in promoting the use of asset management in them but we must emphasize that after the hit of hurricane Fiona the priority is to rehabilitate the infrastructure and provide potable water, something that has not been possible as fast as needed due to the damage to main intakes and the lack of electric power and generators.

#### **7.4 State Program Management**

The SDWA authorizes states to take up to 10% of the total annual Capitalization Grant to support State Program Management activities, including implementation of an Operator Certification Program and a Capacity Development Strategy. As stated previously, by law a 10% of the Capitalization grant is available for the State Program Management set-aside. During fiscal year 2022 this Department will establish the set aside and will be using the 10% available or \$700,800. Thus, this Department reserves the authority to take from future capitalization grant funds not requested at this time, particularly corresponding the State Program Management set-aside. The Set-Asides

Work Plan 2022-23 submitted to EPA in June 2022 in compliance with the deadline submittal provides details of the activities planned.

As described in EPA's June 6, 2017, memorandum, Congress made several DWSRF program changes via the Water Infrastructure Improvements for the Nation Act (Pub. L. 114-332). In particular, state DWSRF managers have new options to calculate the maximum amount that may be taken for the Administration and Technical Assistance set-aside and should be aware that the additional 1:1 match for the State Program Management set-aside was eliminated for capitalization grants awarded after the WIIN Act's passage (December 16, 2016). The 2017 capitalization grant award was the first opportunity for states to take advantage of these new program flexibilities.

Therefore, now States ARE NOT REQUIRED to match this set-aside on a one-to-one basis above and beyond the 20% match required for all capitalization funds. In the past this amount could be matched with the credit of match and overmatch provided by the Public Water Supply Supervision Program (beyond the required 25% PWSS match).

#### **7.4.1 Operator Certification Program**

The Commonwealth of Puerto Rico, through DOH and the Puerto Rico Department of State, State Drinking Water Treatment Plant Operator Certification Board (the Board) established the Operator Certification Program for Drinking Water Systems, in accordance with the SDWA, which was approved by EPA on September 2002. Puerto Rico has been implementing this Program since its approval. The federal law also authorizes \$30 million nationally, annually, to

support reimbursement of expenses for the training of non-salaried operators at water systems with populations of 3,300 or less people. EPA approved the reimbursement grant on September 30, 2003.

DOH will continue promoting awareness of upcoming regulations in order to ensure adequate operation, reduce system's non-compliance, and expand the training resources available in an effort to improve pass/fail rates of operators taking licensing tests, thus, fostering systems' compliance by implementing the OCP. Meetings with the Existing Board on Operators Certification will continue. Orientation, training and certification of new technical staff concerning operation certification requirements and compliance with the SDWA will provide continuous support/assistance to systems subject to the training plan.

DOH goals for the Operator Certification Program are: to review the adequacy of existing training programs as to the geographic distribution and quality of the training provided; to address the training needs of the operators who will need to be certified in the next few years by outreaching systems and making them available the trainings and compliance requirements and to implement the reimbursement grant to assist systems operators in their training certification process, in order to attain compliance and train and certify staff as operators which in turn that can continue providing oversight for future operators' compliance with the license requirements.

DOH administered a contract for the implementation of the Operator Certification Expense Reimbursement Grant and this contract ended on December 31, 2012. Notwithstanding there are no funds available under this Grant, DOH will continue by means of the Operator Certification initiative, advising the Non-PRASA systems and untreated community systems of the future need for certified operators and the qualification they shall meet. Also, through technical assistance DOH will, to the extent possible, continue providing funds for the certification and examination of operators of small drinking water systems. To this effect DOH has undertaken a pilot project for this purpose partially financed with the 2% or \$220,220 established during FY 2020 for the State Program Management and for this FY 2022 a 10% of \$700,800 will also be used now during this current fiscal year, among others, to, provide assistance and promote the use of asset management plan from the operator certification standpoint.

#### **7.4.2 Capacity Development Program**

Under the Federal Capacity Development Strategy, as outlined in Section 1420 of the SDWA, the State must have the legal authority to assure that all new water systems demonstrate adequate capacity and have a capacity development program in place by October 1, 1999. The Commonwealth of Puerto Rico developed a capacity development assurance plan that was approved by EPA on September 1999 where procedures for undertaking the capacity assessment of new drinking water systems were established. On August 4, 2000, DOH submitted

to EPA, the Capacity Development Strategy, which was approved by EPA on September 29, 2000. Up to date, DOH has complied with all required reports and documentation related to the Capacity Development.

The goals of the Capacity Development Strategy are to discourage the formation of new, small, non-viable public water systems, and to assist and encourage the consolidation, collaboration and regionalization of existing non-viable systems. **Attachment II** (*Capacity Development Program*) summarizes the Capacity Development elements considered when assessing Capacity.

In order to continue meeting federal capacity development requirements, the DOH, has established certain strategies and is undertaking activities such as, the evaluation of new public water systems with the capacity development checklist developed by DOH (See **Attachment III** - Checklist Capacity Development Program New Drinking Water System Capacity Assurance Plan), and the economic assessment of viability of proposed systems. Also, DOH continues the search and identification of those agencies and institutions whether private or public including non-profit organizations that would have an interest in the development and implementation of a capacity development strategy. This search right now is critical and more important than ever due to the situation related to the hit of hurricane Fiona.

Thus, together with these activities, DOH expects to continue enforcing the Legal Authority provided by the existing statutes. Community water systems and non-transient, non-community water systems with an History of Significant Non-compliance (HSNC) now been under ETT consideration were evaluated. Since fiscal year 2012 the Enforcement Targeting Tool (ETT) is used vs. HSNC. The states have to implement in the Capacity Development and the DWSRF programs actions to reflect the new Enforcement Response Policy (ERP) and the Enforcement Targeting Tool (ETT). DOH completed the transition from the evaluation of systems through the traditional Historical Systems in Non-Compliance (HSNC) to the new EPA enforcement approach, the ETT and thus has been working since its effectiveness in fiscal year 2010. The terms “historical significant noncompliance” and “significant noncompliance” are to be interpreted for purposes of the Capacity Development and DWSRF program implementation as systems with ETT scores of 11 or greater. This policy change was effective since Fiscal Year 2013. Under this new approach, the states will not be required to submit a list of HSNCs every three years. It is the intention that the list generated as part of the ETT can be used as one of the ways to identify systems that may lack technical, managerial and financial capacity (TMF) and prioritizes the assistance that can be provided. Thus, instead of reporting SNCs, states can indicate, which of those new community and non-transient non-community water systems have at any point during the first three years of operation, had unaddressed violations that incurred



an ETT score greater than or equal to 11. Under the ETT, these systems are considered a priority system by EPA. This can provide a tool to determine steps to help the systems return to compliance. DOH has complied with the quarterly reporting with the ETT and it is the intention to continue doing so, as well as to comply with the inclusion of said information in the Capacity Development Report.

As stated previously, DOH will, to the extent possible, continue providing assistance with the intention of conducting systems towards compliance with the Capacity Development Program and increase the number of systems in compliance with the SDWA. This will be undertaken, through several approaches and contract undertakings, as well as through the regular compliance assistance. In response to the environmental emergencies the assistances are directed towards the availability of water and the need to make it safe and potable and have it available for distribution to the people always in compliance with the regulations that provide for safe potable water.

Annually in a feedback process DOH and EPA coordinate and revise the status of certain systems as requested by EPA where their status is examined as well as the assistance activities, and efforts provided in order to return them to compliance. This becomes more aggressive when encountering environmental situations such as the hurricanes and earthquakes that threaten the possibility of the systems' compliance. As part of the annual activities, the Small Systems Strategy, which is part of the Capacity Development Strategy was revised and approved by

EPA in November 2015. The revision considers, within others, the possibility of establishing a plan that accounts and assigns priorities in dealing with the systems, according to the population that they serve, and public health risks associated. A high priority is systems that serve schools. Categorized groups could be treated separately with specific action plans responding up to certain extent to case by case needs. Since the revision of the Strategy, it has been possible to concentrate the follow-up to the systems with greater population and systems with schools. Also, it has been possible to lower the number of systems with a score greater than 11. DOH will continue with its implementation. Now the states are required to promote in the systems the development, use and implementation of asset management plans by the systems. To this effect, the states and territories are required to revise their Capacity Development Strategy and include in its revision the promotion in the systems of the use and benefits of asset management plans. DOH already engaged in the process of the revision of the strategy focusing in said promotion. It cannot be disregarded that due to the pandemic this deadline was moved to December 2022. Puerto Rico has been working in that effort, but it is not less important the fact that for Puerto Rico's compliance with the new deadline requires triple exertion from the Department of Health being the case that the Island is not only under the same pandemic situations of other states but the economic factors and limitations of PROMESA that prevails. Added to this is, now, the recent hit of hurricane Fiona in a timing where up to date a full recovery

of the previous two hurricanes Irma and Maria has not happened. It has not happened due to the inability to move faster and use the assistance for disaster of the federal funds where many are based on reimbursements.

**7.5 Special Activities Local Assistance and Other State Program Up to 15% No More Than 10% Activity**

Section 1452(k) of the SDWA authorizes states to take up to 15% of the annual Capitalization Grant to assist in the development and implementation of local drinking water protection initiatives by providing assistance in the form of loans for land acquisition and source water petitions projects. No more than 10% of the Capitalization Grant can be allotted to any one of these special activities. The Commonwealth is not proposing to take or use any of the allotted set-aside funds from the FY 2022 DWSRF Capitalization Grant for the following programs.

It is important to note that AWIA of 2018 provisions for this fiscal year “allows states to fund delineation and assessment of source water protection areas, and to update existing source water protection assessments, using the fifteen percent (15%) Local Assistance and Other State Programs set-aside.” That authorization had previously expired with the 1997 capitalization grant funding. Further, states may use this set-aside to fund activities to implement source water protection more generally.

### **7.5.1 Land Acquisition**

Funds in the DWSRF can be used to purchase land integral to the construction of facilities, but not for other purposes such as watershed protection. A separate 10% set-aside could be used to establish a separate low-interest loan fund for land acquisition, particularly for watershed protection. The Commonwealth is not proposing to create such a loan fund at this time. There may be other existing programs that may be used to purchase sensitive watershed lands.

### **7.5.2 Capacity Strategy**

The Commonwealth has used a portion of the allotted State Program Management set-aside to develop a Commonwealth Capacity Development Strategy. DOH, based on information available from other Commonwealth agencies, developed the necessary strategies of capacity development in the Commonwealth, including, without limitation, legislative, regulatory and program changes to prevent the creation of non-viable public water supplies and address existing non-viable public water supplies in the Commonwealth. A pilot project for developing capacity and for the elimination of limiting factors was completed. DOH re-budgeted remaining funds under the Wellhead Protection set-aside in order to use them under Section 1420(c) of the SDWA to establish a Capacity Development Strategy set-aside to provide technical and financial

assistance support to these systems in order to avoid a back slash in their compliance process.

We have to point out that the amendments to the DWSRF Act provide new insight to the Capacity Development Strategy as a mean to assist systems in their compliance and sustainability process. To this effect the following amendments were enacted:

**AWIA, §2012: Asset Management**

This section amends the SDWA § 1420, which requires the EPA and states to help water systems develop financial, managerial, and technical capacity. It is the understanding that States may not provide DWSRF loan assistance to systems that lack these capabilities, unless such assistance will help them achieve capacity in accordance to SDWA §1452(a)(3)(A) The subsection changed were §1420 (c) and (d). Under 1420(c)(2) a new section was added: *(F) a description of how the State will, as appropriate-*  
*(i) encourage development by public water systems of asset management plans that include best practices for asset management; and*  
*(ii) assist, including through the provision of technical assistance, public water systems in training operators or other relevant and appropriate persons in implementing such asset management plans.”*

Understanding the importance of asset management with drinking water systems, this Department has requested EPA’s technical assistance

in the revision and development of additional strategies in this regard to be in compliance with this new requirement. DOH has been in coordination with EPA regarding the assistance requested. DOH highly appreciates EPAs' commitment for providing assistance and as such will proceed when the preliminary draft revision is available. We have detailed in several occasions and discussed with EPA how DOH intends to and is undertaking this revision. The revision will be provided in a separate self-sustaining document based on the fact that Puerto Rico's strategy is composed of two separate strategies: one for addressing PRASA systems under a court order consent decree and one for addressing non PRASA systems which was revised few years ago. Due to the pandemic and limited financial conditions and limited available personnel the progress in the revision of the strategy has also been limited and delayed. Due to the hurricane and rainy season together with the extreme fragility of the electric power system where power outages and loss of internet communication are constant the progress in the revision becomes more and more delayed every day. With the recent hit of hurricane Fiona and with the lack of energy and water in most of the Island and thus in government offices including the DOH this has become halted. Notwithstanding, our exertions will continue trying to gain progress. Nevertheless, we have not discarded the possibility of requesting a time

extension for the submittal of the revised strategy due to the prevailing circumstances.

Also, under section (3) the following related to the reporting must be included in the Report to the Governor *“efforts of the State to encourage development by public water systems of asset management plans and to assist public water systems in training relevant and appropriate persons in implementing such asset management plans.*

*In regard to section (d) Federal Assistance a number 5 is added reading as follows:*

*“(5) Information on asset management practices*

*Not later than 5 years after October 23, 2018, and not less often than every 5 years thereafter, the Administrator shall review and, if appropriate, update educational materials, including handbooks, training materials, and technical information, made available by the Administrator to owners, managers, and operators of public water systems, local officials, technical assistance providers (including nonprofit water associations), and State personnel concerning best practices for asset management strategies that may be used by public water systems.”*

As per EPA’s explanation of the amendments to these sections is *“that states consider and include as appropriate in their state capacity development strategy, a description of how the state will encourage the*

*development of asset management plans that include best practices and any training, technical assistance, and other activities that would help implement asset management plans. The section also mandates that primacy agencies include in their triennial capacity development reports to the Governor a description of how the state will encourage water systems to develop asset management plans, including the provision of technical assistance.”* This section also mandates that the EPA review and, if appropriate, update technical assistance and best practice documents for asset management.

Note that asset management plans (as part of planning and design) and related system software are eligible capital expenses as part of a DWSRF infrastructure loan. The development and implementation of asset management plans for communities are also eligible expenses under the 15% Local Assistance and Other State Programs set-aside (for Capacity Development). We must point out that due to the prevailing Coronavirus pandemic the Capacity Development Assurance Strategy revision to this effect had to be postponed. According to EPA’s letter dated September 19, 2021 the new date to provide the information related to the asset management is December 31, 2022. DOH is currently undertaking the Strategy revision. As previously indicated, at this point after the hit of hurricane Fiona and the lack of essential utilities now for more than two



weeks at this point there is a great possibility of requesting a time extension for the submittal of the revised strategy due to the prevailing circumstances and the inability of a faster recovery and reestablishment of the essential utilities in the island.

### **7.5.3 *Source Water Petitions***

As part of the State's Source Water Assessment and Delineation Program, the Commonwealth will assess variety of options for improving source water protection throughout the Commonwealth. The source water petition program outline in the SDWA is one such option. It would be premature to develop a loan program to fund source water petition partnerships before this assessment is completed and released to the public.

<b>SET-ASIDES STATE REVOLVING FUND</b>				
<b>SET-ASIDES</b>	<b>SDWA</b>	<b>FFY 2022 MAXIMUM ALLOCATION</b>	<b>COMMONWEALTH of Puerto Rico</b>	<b>FFY 2022*</b>
Administration**	4%	\$280,320	4%	\$280,320
DOH & PRIFA				
Technical Assistance ***	2%	140,160	2%	140,160
Management Programs ∞ (No Dollar to Dollar Match requirement) <sup>†</sup>	10%	700,800	10%	700,800
Capacity Development	0%	0	0%	0
Operator Certification	0%	0	0%	0
Special Activity Set-Asides (No banking allowed. No more than 10% for any individual component under this set- aside)	15%	1,051,200	0%	0
Land Acquisition	(10%)	(700,800)	(0%)	0
Capacity Strategy	(10%)	(700,800)	(0%)	0
SW Petition Programs	(10%)	(700,800)	(0%)	0
<b>Total Set Asides Established</b>	<b>31%</b>	<b>\$2,172,480</b>	<b>16 %</b>	<b>\$1,121,280</b>
<p>* Based on an appropriation of \$11,001,000.</p> <p>** DOH will use 4% for the administrative set-aside. DOH will be banking the technical assistance set-aside 2% or \$280,320 corresponding to FY 2022. DOH reserves the right to take from future capitalization grants DOH funds not requested at this time from the 2022 total annual Federal Capitalization Grant.</p> <p>*** DOH will establish 2% or \$140,160 of the Technical Assistance set aside from the 2022 capitalization grant.</p> <p>∞ DOH will establish 10% of the State Program Management set aside in the amount of \$700,800 from the 2022 capitalization grant. DOH reserves the right to take from future capitalization grants the remaining amount from FY 2022 Capitalization Grant under the set-aside.</p> <p>† It is important to emphasize that since fiscal year 2017, match for the State Program Management set aside was eliminated for capitalization grants awarded after the WIIN Act's passage (December 6, 2016).</p>				

## **8.0 DISADVANTAGED COMMUNITY PROGRAM**

### **8.1 Definition of Disadvantaged Community**

As defined by 1452(d)(3) of the SDWA, a disadvantaged community is one in which the service area of a public water system meets affordability criteria established after public review and comment by the State in which the public water system is located. In the Commonwealth, drinking water projects will be reviewed to determine funding eligibility and scored based on an established priority ranking system. It is important to mention that there are two types of additional subsidy. One is provided under the disadvantaged community and the other is the “Congressional”. The DWSRF program had established a Definition of Disadvantaged Community since the inception of the DWSRF, but the corresponding percent was not established or determined for its use. The subsidy percent under disadvantage communities were not determined or used until fiscal year 2018. Almost in the same manner, the “Congressional” subsidy was used when it became mandatory. One of the reasons for not doing so was in order to preserve as much the DWSRF capitalization as possible and the other was the lack of loan applications particularly for the disadvantaged communities/disadvantaged systems.

As per the definition established by the SDWA section 1452(d)(3) where “a disadvantaged community means the service area of a public water system that meets affordability criteria established after Public Review and comment by the State in which the public water system is located”. DOH will consider a disadvantaged system those systems are serving 25 or more persons or 15 or more connections for more than 60

consecutive days, and may or may not be connected to a PRASA system whether or not in the next 5 years and may or may not be considered isolated due to their topographic condition. Thus, a disadvantaged system are those systems that meet the affordability criteria. The Project may not be segmented. Refinancing is eligible through the regular subsidized DWSRF Program if qualified as stated in the DWSRF. However, hardship financial assistance is only available for new Drinking Water Projects for which the notice of construction was given on or after July 1, 1993.

After twenty-five (25) years of administration of the Program and no loan applications under the disadvantaged community program received, this Department has proceeded to evaluate and modify the definition in order to increase the number of systems that could participate or benefit from this subsidy. As previously mentioned, DOH understands that a disadvantaged community is a disadvantage system. DOH will consider disadvantaged system that system serving 25 or more persons or 15 or more connections for more than 60 consecutive days, and may or may not be connected to a PRASA system whether or not in the next 5 years and may or may not be considered isolated due to their topographic condition. Thus, a disadvantaged system is a system that meets the affordability criteria. The project may not be segmented. Refinancing is eligible through the regular subsidized DWSRF Program if qualified as stated in the DWSRF. However, hardship financial assistance is only available for new Drinking Water Projects for which the notice of construction was given on or after July 1, 1993.

In the Commonwealth, drinking water projects will be reviewed to determine funding eligibility and scored based on an established priority ranking system. Communities whose water projects are ranked high enough will be evaluated for hardship based upon a comparison of projected and programmed service charges (total debt service plus operation and maintenance costs) for a typical household expressed as percentage of Median Household Income Levels (MHIL) for the service area. The DWSRF may provide additional financial assistance to water systems serving communities experiencing economic hardship. Additional financial assistance will be accomplished by first reducing the interest rate as necessary to lower the projected service charge to the Proposed Service Charge (PSC). Other financial mechanisms such as principal subsidy or forty (40) years loan terms (or design life), may be available to provide increased financial benefits. Throughout the years and although up to 20% of the Capitalization Grant could be used for loan subsidies, the Commonwealth did not use this mechanism, because this Department as administrators of the DWSRF wanted to preserve as much DWSRF capitalization as possible to meet the strong demand for financial assistance throughout the Commonwealth. Additionally, there were no disadvantage community applications received. Nevertheless, recognizing the need to assist more systems, particularly after the hit of the last two hurricanes, since fiscal year 2018 it was established although no applications have been received and the cut-off prevailed. The same applies to FYs 2019 2020 and 2021. For this FY 2022 year, we also established it considering that by law this benefit for disadvantage communities have increased.

Projects, which qualify for financial hardship assistance, will be provided with written confirmation letters and in future IUP periods placed on the Multi-Year priority list as Hardship Loans. Written hardship confirmation will be limited to projects that have a total numerical score greater than (or equal to) the project with the lowest score (excluding bonus points) eligible to be funded from the current multi-year list. Hardship projects with this score or higher will be selected from the Multi-Year List. Written qualification for financial hardship assistance will remain valid for two consecutive annual federal funding cycles. If a project has not been selected for funding during this period, it will be removed from the fundable portion or readiness list identified as Hardship (and re-listed on the Multi-Year List) unless is re-qualified as a Hardship Loan project.

Confirmation that a project qualifies for hardship assistance will help facilitate funding coordination with other agencies such as Rural Development, and Housing and Urban Development (HUD). Coordination of joint funding of projects will be done on a project by project-basis.

Currently, under the debt restructure of PRASA, the affordability criteria and disadvantage community was evaluated as part of the debt restructure process and the systems that may qualify under it. The debt restructure agreement that was finally executed did not use this benefit.

EPA's memorandum of March 25, 2019 indicated "that through the AWIA 2018 state DWSRF's managers should take particular note of AWIA's changes to the SDWA that authorize extended infrastructure loan terms, require the provision of additional subsidy

to state-defined disadvantaged communities, and expand source water protection-related eligibilities under the Local Assistance set-aside. These provisions will provide critical support to low-income communities and promote preventative activities to protect the water supply.”

AWIA §2015(c) amends the SDWA §1452(d) that now states as follows:

“(1) Loan subsidy - Notwithstanding any other provision of this section, in any case in which the State makes a loan pursuant to subsection (a)(2) to a disadvantaged community or to a community that the State expects to become a disadvantaged community as the result of a proposed project, the State may provide additional subsidization (including forgiveness of principal).

(2) Total amount of subsidies - For each fiscal year, *of the amount of the capitalization grant received by the State for the year*, the total amount of loan subsidies made by a State pursuant to paragraph (1)

(A) may not exceed 35 percent and

(B) *to the extent that there are sufficient applications for loans to communities described in paragraph (1), may not be less than 6 percent.*

(3) "Disadvantaged community" defined In this subsection, the term "disadvantaged community" means the service area of a public water system that meets affordability criteria established after public review and comment by the State in which the public water system is located. The Administrator may publish information to assist States in establishing affordability criteria."

Therefore, “this section requires the states to use at least 6 percent but no more than 35 percent of the capitalization grant amount for additional subsidy for State – defined disadvantage communities.” Previously in the SDWA, “the floor was zero percent, and the ceiling was 30 percent in the SDWA. This requirement pertains to capitalization grants awarded by the EPA to states after October 23, 2018. For most states, this is the Federal Fiscal Year 2019 grant.”

“States must establish or continue to implement a Disadvantaged Community Program and solicit applications from water systems. The SDWA allows for the possibility that states may not meet the provision; note that the law text above says, “to the extent there are sufficient applications for loans ...”. States, unable to find a sufficient number of disadvantaged community projects should explain in their Intended Use Plan (IUP) and Annual/Biennial Report why the provision was not met and what they are doing to ensure that this provision is met in future years (e.g., marketing, outreach, technical assistance).”

“As a reminder, under the Disadvantaged Community Additional Subsidy authority, subsidies must be in the form of a loan (e.g., loans which include principal forgiveness, negative interest rate loans {40 CFR §35.3525(b)(1)}). This provision does not authorize grants. Further, fees included as principal in a loan cannot be assessed on a disadvantaged community receiving additional subsidy under the Disadvantaged Community Additional Subsidy authority {40 CFR §35.3525(b) (3)}.”



It is important to note that with the Consolidated, 2022 and the BIL, 2021, it is required a minimum twelve (12) percent as additional subsidization floor, and the ceiling remains as thirty (35) percent.

Also, the Consolidated, 2022 and the BIL, 2021 requires the additional subsidization must be awarded in the form of forgiveness of principal, negative interest loans, or grants (or any combination of these).

Moreover, the loan term for disadvantage communities increased with the AWIA from 30 years to 40 years. However, the loan term should not exceed the expected design/useful life of the project's. Now for this fiscal year, in accordance with the Consolidated, 2022 and the BIL, this Department is required to provide additional subsidies of not less than 12 percent but no more than 35 percent of the capitalization grant amount for additional subsidy for state-defined Disadvantaged Communities and to the extent that there are sufficient applications for loans to communities that meet the definition of disadvantaged.

For fiscal year 2022 this subsidy is set in the amount of \$2,452,800 or 35% as the maximum amount and may be awarded to the extent that there are sufficient loan applications. The expectation of a loan amortization period up to forty (40) years or its design life, whichever is shorter and with a loan repayment initiation of up to eighteen months after the project completion.

## **8.2 Affordability (Hardship/Disadvantage System) Criteria**

The purpose of the affordability criteria is to determine which public water systems are eligible for financial assistance beyond the ordinary benefits available through the DWSRF. The additional benefits will assist economically disadvantaged water systems in the construction of eligible drinking water projects. Currently, a hardship loan determination may be applied and may be dependent upon the debt restructure terms approval in particular to the PRASA. We must indicate that the debt restructure agreement as executed on July 26, 2019, did not use this benefit.

### **8.2.1 Affordability Criteria**

This Criterion is design to assist systems most is needed on a household basis. The points awarded for this Category are documented by the latest census information. For those systems, identified as disadvantaged, priority points will be awarded based on the Median Household Income Levels (MHIL) (See **Attachment IV**).

### **8.2.2 Hardship Financial Assistance Criteria**

Projects must meet the definition of hardship under this criterion. The determination will be made using the *Systems Criteria and Ranking Methodology (Attachment V)* and as follows:

- Projects may not be segmented in order to qualify for hardship assistance.

- Refinancing is eligible through the regular subsidized DWSRF program if qualified or eligible as required and stated in the DWSRF. However, hardship financial assistance is only available for new drinking water projects for which the notice for construction to proceed was given on or after July 1, 1993.
- The applicant for a DWSRF hardship loan must demonstrate that it can repay its debt obligation, has a satisfactory O&M procedure and can comply with DOH/DWSRF Capacity Development Program.
- Projects that are determined eligible for hardship assistance will receive a written confirmation of eligibility.
- Confirmation of funding availability will be valid for two consecutive annual federal funding cycles provided that the projected service charge does not change significantly.
- Confirmation of funding availability may be withdrawn if: the applicant fails to demonstrate satisfactory progress towards project implementation; the information on which the determination was made changes prior to loan closing; or the applicant fails to demonstrate that it can repay the loan.
- Median Household Income Levels based on the latest Census data, which for this fiscal year is as follows:

<u>Median Household Income (MHIL)</u>	<u>Points</u>
less than \$9,813	30
between \$9,813 and \$14,719	15
between \$14,720 and \$19,626	5
above \$19,626	0

### ***8.2.3 Projects Likely to Receive Additional Assistance Payments (Hardship List)***

Systems with projects eligible for funding in this IUP will be required to submit the financial information listed above, as well as any additional information requested by DOH. Hardship determinations will be made as project information becomes available. Eligible systems/projects must meet hardship criterion.

For the application of this criterion, DOH will proceed as follows:

- The initial range will be established with a minimum of 12 percent and a maximum of 35 percent. For this fiscal year the minimum is \$840,960 and the maximum is \$2,452,800.
- The funds will be distributed among the projects that satisfies the hardship criteria. Funds will be distributed starting with the project with the highest priority and until funds or the corresponding percent is totally assigned.
- The priority points under this criterion will be those awarded based on the Median Household Income (MHIL) (i.e.: 30, 15, 5, 0 points awarded) to the qualifying projects.

- Additional points will be awarded the project based on population to the points obtained based on the MHIL:
  - ❖ one (1) point will be added to the priority obtained by project with the lowest population; and
  - ❖ subsequently the number will increase by one (1) point and added to the project as they increase in population.

To the extent that there are sufficient applications for loans to disadvantage communities this percent will be no less than **12** but not greater than 35. If there are no loan applications for disadvantage communities, the minimum **12** percent will not be established. As requested by PRASA during the public participation process for this IUP, a maximum of 35% or \$2,452,800 has been awarded to the following three projects: New CT / Distribution Tank FP Corozal (Termination), Termination Juncos -Valenciano, and Coto Laurel WTP. It must be note that the subsidies may be in the form of forgiveness of principal, grants, negative interest loans, other loan forgiveness, and through buying, refinancing, or restructuring debt. DOH has determined to award it as a subsidy with zero percent (0.0%) of interest rate and principal forgiveness.

#### **8.2.4 Additional Subsidies**

Notwithstanding the regular subsidies provided by the law during the last few years, the Procedures for Implementing Certain Provisions of EPA's Fiscal Years Appropriations Affecting the Clean Water and Drinking Water State

Revolving Fund Programs have required the establishment of certain percent for subsidies. Now there are two additional subsidies that DOH has to considered and/or established, where applicable and to the extent possible: “Mandatory Congressional” and “Limited 35% Subsidy/Disadvantaged Community”. DOH has complied with the requirement by establishing mechanisms for targeting and awarding the funds and the percent, mainly for the mandatory, up to this current fiscal year. Since fiscal year 2018 DOH has also established the additional subsidy for “Disadvantaged Community”, but no applications have been received due to the fact that the cut-off prevailed up to September 2019. Also, during FY 2020 no applications were received.

EPA has stated that under the DWSRF “the first priority for States is protection of water quality (in the CWSRF) and public health (in the DWSRF) based on the Clean Water Act and Safe Drinking Water Act, respectively”. Notwithstanding, the Consolidated, 2021 provides for the use of the additional subsidies provision as opportunity for the States “to use the subsidy assistance to further additional objectives that supplement but do not replace the statutory objectives” above mentioned. Moreover “EPA’s Clean Water and Safe Drinking Water Infrastructure Sustainability Policy (October 2010) and relevant provisions of the HUD-DOH-EPA Partnership Agreement (June 2009) provide the basis of EPA’s policy advice to the States on the use of the additional subsidy.” Based on the above, “the Sustainability Policy encourages States to target the additional

subsidies to communities that could otherwise not afford an SRF loan. These communities may include, for example, disadvantaged communities or environmental justice communities. The Policy also encourages States to use their subsidy authority to fund the development of plans using the “Planning for Sustainability Handbook.” During FY 2018 the Bipartisan Budget Act of 2018 provided for the use of the full amount of previously appropriated amounts for capitalization grants as subsidy with zero percent (0.0%) of interest rate and principal forgiveness.

In targeting additional subsidies, as established in the Consolidated, 2022 and the AWIA, Puerto Rico will provide 14% (\$981,120) of the FY 2022 capitalization grant to provide additional subsidization (mandatory congressional 14%) with negative interest loans, principal forgiveness (or any combination of these).

The recipient of the grant must identify projects within at least one of the following qualifying categories in order to receive points under the additional mandatory congressional subsidy criterion:

- a) projects that will eliminate or consolidate small system.....3 points
- b) projects that support sustainable systems and help build or maintain the technical, financial and managerial capacity of the recipient ..... 2 points
- c) systems related to communities or serving directly a

community that could not otherwise afford the DWSRF  
loan including disadvantaged communities as defined  
by the Commonwealth ..... 1 point

When applicable, if the Act provides for a range in the percent to be established, and if the recipient has projects that could be identified under one or more of the above-mentioned categories, for each additional remaining category the percent will increase by 5%.

The mandatory congressional 14% subsidy will be distributed until the subsidized amount is completely used and among the eligible recipients (See **Appendix II**) as follows:

- to project(s) by priority order and the qualifying category and until the subsidized amount is completely used.

In the case that there is only one recipient the subsidized amount could be awarded in any of the following manners and until the subsidized amount is completely used.

- to project(s) by priority order and the qualifying category,
- directly to the project(s) identified within the qualifying categories,
- the project(s) first received and ready to go,
- the most expensive project(s).



## 9.0 PROJECT PRIORITY LIST

### 9.1 Project Selection Process

Federal law requires the Commonwealth to develop a Project Priority Ranking System. The priority ranking system establishes a list of eligible projects to be funded in a manner consistent with the SDWA such that compliance is given the highest priority. The DOH proposed that Priority will be given to water systems in non-compliance with the surface water treatment requirements, and those incurring acute, primary or action level violations as defined in the SDWA. Addressing these problems will protect the public health of the water users and will bring water systems into compliance with the SDWA.

The next priority has been given to systems that address the most serious risks to public health, therefore the highest priority will be given to acute public health risks, particularly those related to microbiological organism. Situations that pose chronic and longer-term risks to consumers, such as organic chemical contamination, are also considered.

The scoring criteria also considers issues related to infrastructure upgrading or replacement. The project ranking system also considers, as mandated by the SDWA, special allocations and restrictions on the use of DWSRF monies for disadvantaged and small systems. A detailed description of the Project Priority Ranking Systems is included as **Attachment V** (*Systems Criteria and Ranking Methodology (Summary)*) to this IUP. A checklist as to the information to be provided by the proponent is included as **Attachment VI** (*Check List for Priority Ranking/Project Fact Sheet*).

## 9.2 *Description and Use of Project List*

Projects must be included in the IUP to receive DWSRF financing. This IUP includes the following prioritized lists of eligible projects being considered for financing from the DWSRF.

- The Project Readiness List or Fundable List/Robust List includes projects which have completed construction or will submit plans and specifications for review and approval and are expected to be ready for long-term financing during the effective period of this IUP. DOH will review the projected readiness date and the project proposal for all eligible projects and put together the fundable and planning portions of the list.
- The Project Multi-Year List will also include the project readiness list which includes all those projects expected to qualify for long provisions are made in the Project Priority Ranking System to bypass project which may not progress as expected. The Multi-Year List includes projects that may be ready during the current IUP period and, in the case where additional funds are available or a project on the fundable or readiness portion is not ready to proceed, these projects may substitute the ones not ready upon a formal request of the proponent. Both Lists may include projects for small systems serving less than 10,000 people, as well as projects related to Disadvantaged Communities.

### **9.3 Hardship List**

This IUP includes a preliminary Hardship List. Final hardship determinations/evaluations will be completed once DOH received all the necessary information related to project that were initially qualified for hardship status. Nevertheless, the debt restructure process of PRASA may include a hardship determination currently under EPA's and the DOH's evaluation and determination related to prior loan awards. Due to PRASA's debt restructure and negotiations, PRASA may be requesting the benefit of the application of the hardship/affordability criteria for disadvantaged systems and thus, will be providing the required data for the evaluation of projects in order to award hardship loans, to the extent that there are sufficient applications, DOH will be establishing this percent and awarding them to qualified projects/systems in disadvantage. Once the negotiations were completed EPA determined that there were no project qualified/systems in disadvantage at the time the debt restructure agreement was reached. For FY 2022, this Preliminary Hardship List was established, and the projects are included in the Robust List and marked as such.

### **9.4 State Environmental Review Process/Determination of Equivalency Projects**

To be consistent with federal guidelines, the State Environmental Review Process (SERP) applies to all projects receiving financial assistance from the DWSRF. The SERP incorporates environmental review requirements of the National Environmental Policy Act (NEPA) and its implementing regulations, and the Puerto Rico Environmental Quality Board Act (Act No. 416 of September 22, 2004, known as the Environmental Public Policy

Act derogated Law No. 9 of June 18, 1970, as amended). The DWSRF loan applicant must comply with the SERP in order to receive DWSRF financing.

In accordance with the SERP, all DWSRF financed projects are classified as either Tier I or Tier II projects. Tier I projects, also referred to as "equivalency" projects, refer to those DWSRF projects that are financed by loans whose cumulative total is an amount equal to the federal Capitalization Grant to the State. Tier II projects, ("non-equivalency" projects), refer to all other projects that receive DWSRF financial assistance.

Tier I projects must undergo an environmental review consistent with the National Environmental Policy Act (NEPA). For the DWSRF program, Tier I projects will include:

- projects for which an environmental review consistent with NEPA has already been completed; and
- projects that meet the definition of a NEPA categorical exclusion.

If necessary, additional Tier I Projects will include:

- projects for which applicants have voluntarily undertaken to complete a NEPA equivalent environmental review;
- projects that have a particular environmental significance, due to the nature and scope of the projects; and
- projects for which the environmental review can be considered functionally equivalent to NEPA environmental review, with some minor additional elements.

Tier II projects refer to the environmental review requirements of EQB with additional requirements that may be imposed by the SERP for the DWSRF program. Applicants will be notified by DOH and EQB whether their project(s) proposed for financing through the DWSRF program fall under the category Tier I ("equivalency") of Tier II. Since the enabling Commonwealth law that created the Office of Permits and Management (or OGPe in Spanish) the state environmental review process that is been undertaken is through this agency. DOH in its level of review has always required an environmental review process that complies with the NEPA or is a NEPA-like process as established by or required by the DWSRF program.

## **10.0 ATTACHMENTS AND APPENDIXES**